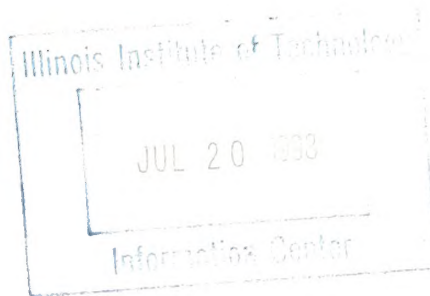


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**1998**

# ***Illinois Register***

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## **Rules of Governmental Agencies**

Volume 22, Issue 29—July 17, 1998

Pages 12,422 - 13,263

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Index Department  
Administrative Code Div.  
111 East Monroe Street  
Springfield, IL 62756  
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published by  
**George H. Ryan**  
Secretary of State



# TABLE OF CONTENTS

July 17, 1998 Volume 22, Issue 29

## PROPOSED RULES

CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF	
Pay Plan	80 Ill. Adm. Code 310 .....12422
DEPARTMENT OF HUMAN SERVICES	
Child Care	89 Ill. Adm. Code 50 .....12425
EDUCATION, STATE BOARD OF	
Certification	23 Ill. Adm. Code 25 .....12427
Reading Improvement Program	23 Ill. Adm. Code 260 .....12435
ENVIRONMENTAL PROTECTION AGENCY	
Determination Of Ammonia Nitrogen Water Quality Based Effluent Limits For Discharges To General Use Waters	35 Ill. Adm. Code 355 .....12442
GOVERNOR, OFFICE OF THE	
Supplemental Procurement Rules	44 Ill. Adm. Code 1500 .....12458
LIEUTENANT GOVERNOR, OFFICE OF THE	
Supplemental Procurement Rules	44 Ill. Adm. Code 1600 .....12461
PROFESSIONAL REGULATION, DEPARTMENT OF	
Dietetic And Nutrition Services Practice Act	68 Ill. Adm. Code 1245 .....12464
PUBLIC AID, DEPARTMENT OF	
Diagnosis Related Grouping (DRG) Prospective Payment System (PPS)	89 Ill. Adm. Code 149 .....12468
Hospital Services	89 Ill. Adm. Code 148 .....12471
Long Term Care Reimbursement Changes	89 Ill. Adm. Code 153 .....12474
Medical Assistance Programs	89 Ill. Adm. Code 120 .....12476
Specialized Health Care Delivery Systems	89 Ill. Adm. Code 146 .....12499
TEACHERS' RETIREMENT SYSTEMS OF THE STATE OF ILLINOIS	
The Administration And Operation Of The Teachers' Retirement System	80 Ill. Adm. Code 1650 .....12502

## ADOPTED RULES

EDUCATION, STATE BOARD OF	
Elementary And Secondary School Capital Assistance Program	23 Ill. Adm. Code 150, Repeal .....12505
Evaluation Of Certified School District Employees In Contractual Continued Service	23 Ill. Adm. Code 50 .....12507
Health/Life Safety Code For Public Schools	23 Ill. Adm. Code 180 .....12514
Pupil Transportation	23 Ill. Adm. Code 275 .....12533
School Construction Program	23 Ill. Adm. Code 151 .....12538
Sprinkler Systems	23 Ill. Adm. Code 170, Repeal .....12548
FINANCIAL INSTITUTIONS, DEPARTMENT OF	
Financial Planning And Management Service Act	38 Ill. Adm. Code 140 .....12550
SECRETARY OF STATE	
Electronic Filing Of Documents	2 Ill. Adm. Code 570 .....12565
EMERGENCY RULES	
CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF	
Acquisition, Management And Disposal Of Real Property	44 Ill. Adm. Code 5000 .....12569
Business Enterprise Program: Contracting With Businesses Owned And Controlled By Minorities, Females And Persons With Disabilities	44 Ill. Adm. Code 10 .....12584
Pay Plan	80 Ill. Adm. Code 310 .....12607
Standard Procurement	44 Ill. Adm. Code 1, Repeal .....12632
Standard Procurement	44 Ill. Adm. Code 1 .....12726
DEPARTMENT OF HUMAN SERVICES	
Child Care	89 Ill. Adm. Code 50 .....12816
GOVERNOR, OFFICE OF THE	
Supplemental Procurement Rules	44 Ill. Adm. Code 1500 .....12823
LIEUTENANT GOVERNOR, OFFICE OF THE	
Supplemental Procurement Rules	44 Ill. Adm. Code 1600 .....12893



FINANCIAL INSTITUTIONS, DEPARTMENT OF	
Uniform Disposition Of Unclaimed Property Act	
38 Ill. Adm. Code 180, et al .....	13246
HOUSING DEVELOPMENT AUTHORITY, ILLINOIS	
Multifamily Rental Housing Mortgage Loan Program	
47 Ill. Adm. Code 310, et al .....	13248
LABOR, DEPARTMENT OF	
Freedom Of Information	
2 Ill. Adm. Code 1400, et al .....	13250
JOINT COMMITTEE ON ADMINISTRATIVE RULES	
Agenda for Meeting of July 21, 1998 .....	13254
JOINT COMMITTEE ON ADMINISTRATIVE RULES	
Second Notices Received .....	13261

# ISSUES INDEX I-1

Editor's Note: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

April 17, 1998 - Issue 16: Through	March 31, 1998
July 17, 1998 - Issue 29: Through	June 30, 1998
October 16, 1998 - Issue 42: Through	September 30, 1998
January 15, 1999 - Issue 3: Through	December 31, 1998 (Annual)

OFFICE OF BANKS AND REAL ESTATE	
Licensing And Regulation Of Pawnbrokers	
38 Ill. Adm. Code 360 .....	12963
Real Estate Appraiser Certification	
68 Ill. Adm. Code 1455, Repeal .....	12979
Real Estate Appraiser Certification	
68 Ill. Adm. Code 1455 .....	13011
PUBLIC AID, DEPARTMENT OF	
Diagnosis Related Grouping (DRG) Prospective Payment System (PPS)	
89 Ill. Adm. Code 149 .....	13064
Hospital Services	
89 Ill. Adm. Code 148 .....	13070
Long Term Care Reimbursement Changes	
89 Ill. Adm. Code 153 .....	13114
Medical Payment	
89 Ill. Adm. Code 140 .....	13117
Specialized Health Care Delivery Systems	
89 Ill. Adm. Code 146 .....	13146
TEACHERS' RETIREMENT SYSTEMS OF THE STATE OF ILLINOIS	
The Administration And Operation Of The Teachers' Retirement System	
80 Ill. Adm. Code 1650 .....	13151
TREASURER	
Procurement	
44 Ill. Adm. Code 1400 .....	13169
NOTICE OF PUBLIC HEARINGS	
CHILDREN AND FAMILY SERVICES, DEPARTMENT OF	
Services Delivered By The Department Of Children and Family Services	
89 Ill. Adm. Code 302 .....	13232
Permanency Planning	
89 Ill. Adm. Code 315 .....	13233
Confidentiality of Personal Information of Persons Served by the Department of Children and Family Services	
89 Ill. Adm. Code 431 .....	13234
REGULATORY AGENCY	
EDUCATION, STATE BOARD OF	
Determining Special Education Per Capita Tuition Charge	
23 Ill. Adm. Code 130, et al .....	13235
ENVIRONMENTAL PROTECTION AGENCY	
Annual Emissions Report	
35 Ill. Adm. Code 254, et al .....	13237



## INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

## REGISTER PUBLICATION SCHEDULE 1998

Material Rec'd before 4:30 p.m. on:	Will be in Issue #:	Published on:
July 13, 1998	30	July 24, 1998
July 20, 1998	31	July 31, 1998
July 28, 1998	32	Aug. 7, 1998
Aug. 3, 1998	33	Aug. 14, 1998
Aug. 10, 1998	34	Aug. 21, 1998
Aug. 17, 1998	35	Aug. 28, 1998
Aug. 24, 1998	36	Sept. 4, 1998
Aug. 31, 1998	37	Sept. 11, 1998
Sept. 8, 1998*	38	Sept. 18, 1998
Sept. 14, 1998	39	Sept. 25, 1998
Sept. 21, 1998	40	Oct. 2, 1998
Sept. 28, 1998	41	Oct. 9, 1998
Oct. 5, 1998	42	Oct. 16, 1998
Oct. 13, 1998*	43	Oct. 23, 1998
Oct. 19, 1998	44	Oct. 30, 1998
Oct. 26, 1998	45	Nov. 6, 1998
Nov. 2, 1998	46	Nov. 13, 1998
Nov. 9, 1998	47	Nov. 20, 1998
Nov. 16, 1998	48	Nov. 30, 1998
Nov. 23, 1998	49	Dec. 4, 1998
Nov. 30, 1998	50	Dec. 11, 1998
Dec. 7, 1998	51	Dec. 18, 1998
Dec. 14, 1998	52	Dec. 28, 1998
Dec. 21, 1998	1	Jan. 4, 1999
Dec. 28, 1998	2	Jan. 8, 1999

\*Please note: If the state holiday falls on a Monday, the deadline will be 12 noon on Tuesday (the next day).



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Pay Plan

2) Code Citation: 80 Ill. Adm. Code 310

<u>Section Numbers</u>	<u>Proposed Action:</u>
310.110	Amended
310.130	Amended
310.290	Amended
310.450	Amended
310.495	Amended
310.530	Amended
310.540	Amended
310.Appendix B	Amended
310.Appendix C	Amended
310.Appendix D	Amended
310.Appendix G	Amended

4) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

5) A Complete Description of the Subjects and Issues Involved: The following amendments to Sections 310.110, 310.130, 310.290, 310.450, 310.530, 310.540, and 310. Appendices B, C, D and G reflect the Fiscal Year 1999 changes that affect those employees subject to the Schedule of Salary Grades and Merit Compensation.

In Sections 310.110 (Implementation of Pay Plan Changes for Fiscal Year 1998) and 310.130 (Effective Date), the dates are being changed to reflect the new Fiscal Year 1999.

The reference to receiving a one-time lump sum payment of \$565 in Sections 310.110 and 310.530 is being deleted since this will be rescinded after June 30, 1998.

Narrative in reference to employees subject to the alternative retirement formula is being omitted in Sections 310.110, 310.450 and 310.530.

The previous suspension of Merit Increases to employees other than those subject to the alternative retirement formula as stated in Sections 310.450, 310.530 and 310.540 is being removed.

In Section 310.290, Out-of-State or Foreign Service Rate, the salary ranges for the Foreign Service and Merit Compensation out-of-state titles are being revised to reflect the 3% increase in the Schedule of Salary Grades, Merit Compensation ranges and negotiated rates.

In Section 310.495, Broad-Band Pay Range Classes, subsections (e) and (f) are being deleted since this is in reference to the initial placement of

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

positions in the Public Service Administrator and Senior Public Service Administrator classes. Also, the two levels for the Senior Public Service Administrator class are being deleted.

In Section 310.540, Annual Merit Increase Guidechart for Fiscal Year 1999, the new Merit Compensation guidechart is being revised to reflect changes in definitions and allowable amounts of salary increases for the level of performance. Merit increases for all employees are being reinstated.

In Section 310.Appendix B, the Schedule of Salary Grades is being upgraded to include a general increase of 3% which is identical to that already negotiated by the major collective bargaining units for July 1, 1998.

In Section 310.Appendix C, the Medical Administrator Rates are being increased by 3% for Fiscal Year 1999.

In Section 310.Appendices D and G, the minimum salaries for the Merit Compensation System Salary Schedule and Broad-Band Pay Range Classes Salary Schedule are being increased by 3%, while the maximum salaries of the new schedules will reflect an increase of 3% to the Fiscal Year 1998 salary maximums of the alternative retirement formula schedule. The Senior Public Service Administrator will no longer reflect levels.

6) Will this proposed rule replace an emergency rule currently in effect?  
No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain any incorporations by reference? No

9) Are there any proposed amendments pending to this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Ill. Reg. Citation</u>
310.70	Amended	22 Ill Reg. 7385
310.100	Amended	22 Ill Reg. 7385
310.140	Repealed	22 Ill Reg. 7385
310.280	Amended	22 Ill. Reg. 7385
310.490	Amended	22 Ill. Reg. 7385
Appendix A, Table A	Amended	22 Ill. Reg. 7385
Appendix A, Table B	Amended	22 Ill. Reg. 7385
Appendix A, Table D	Amended	22 Ill. Reg. 7385
Appendix A, Table F	Amended	22 Ill. Reg. 7385
Appendix A, Table S	Amended	22 Ill. Reg. 7385
Appendix A, Table V	Amended	22 Ill. Reg. 7385

10) Statement of Statewide Objectives: These amendments to the Pay Plan pertain only to State employees subject to the Personnel Code and do not set out any guidelines that are to be followed by local or other



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

jurisdictional bodies within the State.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Mr. Michael Murphy  
Department of Central Management Services  
Division of Technical Services  
504 William G. Stratton Building  
Springfield, Illinois 62706  
(217) 782-5601

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None. The Department of Central Management Services' Pay Plan extends only to Personnel Code employees under the jurisdiction of the Governor.

B) Reporting, bookkeeping or other procedures required for compliance:  
None

C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent Regulatory Agendas because: The Department did not file a regulatory agenda.

The full text of the Proposed Amendments is identical to the Emergency Amendments published on page 12607 of the Illinois Register.

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Child Care

- 2) Code Citation: 89 Ill. Adm. Code 50

- 3) Section Numbers:  
50.230 Amendment  
50.235 Amendment  
50.310 Amendment

- 4) Statutory Authority: Implementing Article I through IX and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. I through IX and 12-13].

- 5) A Complete Description of the Subjects and Issues involved: These proposed amendments are needed to enable child care services to continue with no interruption. The change is to use gross earned income minus 10%. The Department is also providing child care services to 1325 parents who were grandfathered because they were receiving child care to obtain education. To continue uninterrupted services, this rulemaking allows a limited test program. The 1325 parents, if they are also working 25 hours per week and have not received more than two years of child care services due to education, would continue to be eligible to receive child care. This rulemaking also proposes to reduce the co-payment for parents whose child is in care less than 5 hours per day.

- 6) Will this proposed rule replace an emergency rule currently in effect?  
Yes

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this proposed amendment contain incorporations by reference? No

- 9) Are there any other amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after the date of this issue of the Illinois Register. All requests and comments should be submitted in writing to:

Mrs. Susan Warner Weir, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East  
3rd Floor, Harris Bldg.



## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

Springfield, Illinois 62762  
Telephone number: (217) 785-9772

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included in either of the two most recent regulatory agendas because it was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of Proposed Amendments is identical to the text of the Emergency Amendments which appears in this issue of the Register on page 1281b.

## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Certification

2) Code Citation: 23 Ill. Adm. Code 25

3) Section Numbers: Proposed Action:  
25.67 New Section

4) Statutory Authority: 105 ILCS 5/2-3.6

5) A Complete Description of the Subjects and Issues Involved: This new Section in Part 25 establishes the approval standards for alternative programs leading to certification for teachers, which were authorized by P.A. 90-548.

Each alternative program must consist of three components:

1) a course of study approved by the State Board of Education;

2) one year's full-time assignment to a teaching position; and

3) a comprehensive assessment of the candidate's performance during the one-year assignment, culminating in a favorable recommendation by the institution of higher education responsible for the course of study.

The proposed rules indicate the required content of program proposals to cover each of these three areas, as well as establishing reporting requirements. For their ongoing approval, the programs are made subject to the Fifth-Year Review that applies to other approved preparation programs.

6) Will this proposed amendment replace an emergency amendment currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? The rules do not contain an incorporation by reference under Section 5-75 of the Illinois Administrative Procedure Act.

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking will not create or enlarge a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this notice to:

## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED AMENDMENT

Sally Vogl  
Agency Rules Coordinator  
Illinois State Board of Education  
100 North First Street  
Springfield, Illinois 62777  
(217) 782-3950

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: Institutions offering programs pursuant to this Section must submit proposals and annual reports as described.
- C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Amendment begins on the next page:

## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES  
SUBTITLE A: EDUCATION  
CHAPTER 1: STATE BOARD OF EDUCATION  
SUBCHAPTER b: PERSONNEL

PART 25  
CERTIFICATION

## SUBPART A: DEFINITIONS

Section  
25.10 Definition of Terms Used in This Part

## SUBPART B: CERTIFICATES

Section  
25.20 State Elementary School Certificate  
25.30 State High School Certificate  
25.40 State Special Certificate  
25.43 Standards for Certification of Special Education Teachers  
25.45 Standards for the Standard Special Certificate--Speech and Language Impaired  
25.50 General Certificate  
25.60 State Special Certificate, Grades 11-12, For Teaching Elective Subjects  
25.65 Alternative Certification  
25.67 Alternative Route to Teacher Certification  
25.70 State Provisional Vocational Certificate  
25.75 Part-time Provisional Certificates  
25.80 Early Childhood Certificates  
25.90 Transitional Bilingual Certificate and Examination  
25.95 Majors, Minors, and Separate Fields for the Illinois High School Certificate  
25.99 Endorsing Teaching Certificates

SUBPART C: APPROVING THE TEACHER EDUCATION PROGRAMS OF THE  
TEACHER EDUCATION INSTITUTIONS OF THE STATE OF ILLINOIS

Section  
25.110 System of Approval: Levels of Approval  
25.120 Standards and Criteria for Institutional Recognition and Program Approval  
25.130 Procedures for Initial Recognition as a Teacher Education Institution  
25.140 Procedures for Approval of New or Modified Teacher Education Programs and Consortia  
25.150 The Periodic Review Process

## SUBPART D: SCHOOL SERVICE PERSONNEL



## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED AMENDMENT

## Section

25.210 Requirements for the Certification of School Social Workers  
 25.220 Requirements for the Certification of Guidance Personnel  
 25.230 Requirements for the Certification of School Psychologists  
 25.240 Standard for School Nurse Endorsement

SUBPART E: REQUIREMENTS FOR THE CERTIFICATION OF  
 ADMINISTRATIVE AND SUPERVISORY POSITIONS

## Section

25.310 Definitions (Repealed)  
 25.311 Administrative Certificate  
 25.315 Renewal of Administrative Certificate  
 25.320 Application for Approval of Program (Repealed)  
 25.322 General Supervisory Endorsement  
 25.330 Standards and Guide for Approved Programs (Repealed)  
 25.333 General Administrative Endorsement  
 25.344 Chief School Business Official Endorsement  
 25.355 Superintendent

## SUBPART F: GENERAL PROVISIONS

## Section

25.405 Military Service  
 25.410 Revoked Certificates  
 25.415 Credit in Junior College  
 25.420 Psychology Accepted as Professional Education  
 25.425 Individuals Prepared in Out-of-State Institutions  
 25.427 Three-Year Limitation  
 25.430 Institutional Approval  
 25.435 School Service Personnel Certificate--Waiver of Evaluations  
 25.437 Equivalency of General Education Requirements  
 25.440 Master of Arts NCATE  
 25.442 Illinois Teacher Corps Programs  
 25.445 College Credit for High School Mathematics and Language Courses  
 25.450 Lapsed Certificates  
 25.455 Substitute Certificates  
 25.460 Provisional Special and Provisional High School Certificates  
 25.465 Credit  
 25.470 Meaning of Experience on Administrative Certificates  
 25.475 Certificates and Permits No Longer Issued  
 25.480 Credit for Certification Purposes  
 25.485 Provisional Recognition of Institutions  
 25.490 Rules for Certification of Persons Who Have Been Convicted of a Crime  
 25.493 Part-Time Teaching Interns  
 25.495 Approval of Out-of-State Institutions and Programs  
 25.497 Supervisory Endorsements

## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED AMENDMENT

SUBPART G: THE UTILIZATION OF TEACHER AIDES AND  
 OTHER NONCERTIFIED PERSONNEL

## Section

25.510 Teacher Aides  
 25.520 Other Noncertificated Personnel  
 25.530 Specialized Instruction by Noncertificated Personnel  
 25.540 Approved Teacher Aide Programs

## SUBPART H: CLINICAL EXPERIENCES

## Section

25.610 Definitions  
 25.620 Student Teaching  
 25.630 Pay for Student Teaching

## SUBPART I: ILLINOIS CERTIFICATION TESTING SYSTEM

## Section

25.705 Purpose - Severability  
 25.710 Definitions  
 25.715 Test Validation  
 25.717 Test Equivalence  
 25.720 Applicability of Testing Requirement  
 25.725 Applicability of Scores  
 25.728 Use of Basic Skills Test at Time of Entry into Teacher Education  
 25.730 Registration  
 25.732 Late Registration  
 25.733 Emergency Registration  
 25.735 Frequency and Location of Examination  
 25.740 Accommodation of Persons with Special Needs  
 25.745 Special Test Dates  
 25.750 Conditions of Testing  
 25.755 Voiding of Scores  
 25.760 Passing Score  
 25.765 Individual Test Score Reports  
 25.770 Rescoring  
 25.775 Institution Test Score Reports  
 25.780 Fees  
 APPENDIX A Statistical Test Equating - Certification Testing System

AUTHORITY: Implementing Article 21 and Section 14C-8 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/Art. 21, 14C-8, and 2-3.6].

SOURCE: Rules and Regulations to Govern the Certification of Teachers adopted September 15, 1977; amended at 4 Ill. Reg. 28, p. 336, effective July 16, 1982; amended at 7 Ill. Reg. 5429, effective April 11, 1983; codified at 8 Ill. Reg. 1441; amended at 9 Ill. Reg. 1046, effective January 16, 1985; amended at 10

## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED AMENDMENT

Ill. Reg. 12578, effective July 8, 1986; amended at 10 Ill. Reg. 15044, effective August 28, 1986; amended at 11 Ill. Reg. 12670, effective July 15, 1987; amended at 12 Ill. Reg. 3709, effective February 1, 1988; amended at 12 Ill. Reg. 16022, effective September 23, 1988; amended at 14 Ill. Reg. 1243, effective January 8, 1990; amended at 14 Ill. Reg. 17936, effective October 18, 1990; amended at 15 Ill. Reg. 17048, effective November 13, 1991; amended at 16 Ill. Reg. 18789, effective November 23, 1992; amended at 19 Ill. Reg. 16826, effective December 11, 1995; amended at 21 Ill. Reg. 11536, effective August 1, 1997; emergency amendment at 22 Ill. Reg. 5097, effective February 27, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 11767, effective June 25, 1998; amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART B: CERTIFICATES

Section 25.67 Alternative Route to Teacher Certification

a) Section 21-5c of the School Code [105 ILCS 5/21-5c] provides for the issuance of provisional alternative teaching certificates to eligible candidates, as defined in that Section, who successfully complete an intensive course of study approved by the State Board of Education.

b) Section 21-5c of the School Code further provides for the issuance of initial teaching certificates to candidates who, after completing the course of study referred to in subsection (a) of this Section, complete an alternative program that also includes:

- 1) one year's full-time teaching; and
- 2) a comprehensive assessment of the candidate's teaching performance, culminating in a favorable recommendation by the institution of higher education responsible for the course of study.

c) Proposals for the establishment of programs meeting the specifications of subsections (a) and (b) of this Section shall be approved if they comply with Section 21-5c of the School Code and this Section. Proposals shall be addressed as follows:

State Board of Education  
Alternative Certification Program  
100 North First Street  
Springfield, Illinois 62777-0001

d) Proposal Requirements

- 1) Each proposal shall describe the role and responsibilities of each cosponsor of the alternative program.
- 2) Each proposal shall demonstrate how the participating institution of higher education will evaluate the congruence of a candidate's baccalaureate education, his or her employment experience in a field requiring application of that education, and the teaching area for which the candidate seeks preparation and certification.
- 3) Each proposal shall state that all candidates must:

## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED AMENDMENT

- A) pass the test of basic skills required pursuant to Section 21-1a of the School Code [105 ILCS 5/21-1a] prior to beginning the proposed course of study; and
- B) pass the test of subject matter knowledge required pursuant to Section 21-1a of the School Code prior to beginning the teaching assignment that is a part of the alternative program.

4) Each proposal shall describe the proposed course of study.

- A) Each proposal shall demonstrate how candidates will acquire knowledge of content and skills equivalent to the content and skills contained in the participating institution's program approved pursuant to Section 25.120 of this Part with regard to:
  - i) educational theory;
  - ii) instructional methods; and
  - iii) practice teaching.

B) Each proposal shall include provisions for determining the amount of time individual candidates will need in order to complete the proposed course of study, based upon such factors as their experience and the type of program offered. In all cases, the amount of time needed shall be less than that required to complete the institution's program approved pursuant to Section 25.120 of this Part.

- C) Each program shall include a preservice assessment of each candidate's performance, to be conducted by the institution of higher education at the conclusion of the course of study in order to determine the candidate's readiness for the year-long teaching assignment. Each proposal shall state the criteria for the institution's determination of candidates' readiness.

5) Each proposal shall describe the proposed arrangements for candidates' teaching assignments under this Section and shall provide for these to be set forth in a formal, written agreement between the participating institution of higher education and the school district(s) where candidates will practice. Each such agreement shall address:

- A) the nature and intensity of the support to be provided to candidates by experienced teachers and other staff members of the district, including
  - i) the qualifications and experience of the assisting teachers and staff,
  - ii) the estimated amount of time assisting teachers and staff will devote to advising and assisting candidates, and
  - iii) the specific roles of the assisting teachers and staff; and
- B) provisions enabling candidates to compensate for teaching time lost due to emergencies.



STATE BOARD OF EDUCATION  
NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Reading Improvement Program
- 2) Code Citation: 23 Ill. Adm. Code 260
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
260.10	Repeal
260.20	Amendment
260.30	Amendment
260.40	Amendment
260.50	Amendment
260.60	Repeal
260.70	Amendment
260.80	New Section
- 4) Statutory Authority: 105 ILCS 5/2-3.51
- 5) A Complete Description of the Subjects and Issues Involved:

P.A. 90-548, enacted in December, made changes in the purposes for which funds under Section 2-3.51 of the School Code could be used and prescribed several changes in the process for submitting applications and receiving funds. Instead of being limited to personnel, books, and materials, the law now permits these funds to be used for a variety of strategies targeted at improving students' reading skills, such as reducing class size and providing additional direct reading instruction, as well as for training and re-training of teachers in grades kindergarten through 3 in the teaching of reading. The law also now requires demonstration of progress in students' reading achievement in order for districts and laboratory schools to be eligible for continued funding after the first two years of the program.

Changes are being made throughout Part 260 to remove language that has become obsolete and to reflect the way in which this program will now operate. The rules outline a very brief application form that eligible recipients will use beginning with Fiscal Year 1999 and call for an annual report on the effects of the program to enable the State Board in turn to comply with its obligation to report to the General Assembly.

One aspect of the law has not yet been integrated into these rules. This has to do with the standards by which recipients will be deemed to have made enough improvement in their students' reading performance to qualify for continued assistance under this block grant program in Fiscal Year 2001 and beyond. The agency needs to devote careful attention to stating how scores on the State assessment will be used to make this determination, which will be complicated by the changes envisioned in the tests over the next several years. In addition, a new bill (HB 2887) has been passed that will, if signed into law, allow recipients to propose other methods of measuring their progress. The State Board will have to

STATE BOARD OF EDUCATION  
NOTICE OF PROPOSED AMENDMENT

- 6) Each proposal shall describe the proposed method of assessing candidates' teaching performance for the year referred to in this Section and shall provide for such methods to be set forth in a formal, written agreement between the participating institution of higher education and the school district(s) where candidates will practice. Each such agreement shall describe:
  - A) the roles of all parties who will participate in the evaluation of candidates; and
  - B) assessment methods capable of demonstrating whether a candidate is:
    - i) knowledgeable about specific subject matter and strategies for teaching that subject matter to students with differing needs; and
    - ii) skilled in managing and monitoring students' learning.
- 7) Each proposal shall delineate the criteria by which candidates will be recommended for initial certification by the participating institution of higher education.
- e) Each alternative program established pursuant to this Section shall be subject to the Fifth-Year Review described in Section 25.150 of this Part.
- f) The sponsoring institutions of programs established pursuant to this Section shall provide annual reports to the State Teacher Certification Board that describe the programs offered, the number and categories of the candidates who apply to each program, the completion rate for each program, and data regarding placement of individuals who complete each program.

(Source: Added at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED AMENDMENTS

formulate standards for approving those methods.

We foresee preparing those additional rules so that they can be proposed early in 1999.

6) Will these proposed amendments replace emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? The rules do not contain an incorporation by reference under Section 5-75 of the Illinois Administrative Procedure Act.

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking will not create or enlarge a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this notice to:

Sally Vogl  
Agency Rules Coordinator  
Illinois State Board of Education  
100 North First Street  
Springfield, Illinois 62777  
(217) 782-3950

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: Recipients of funds pursuant to this Part must submit applications and annual reports on forms supplied by the State Board.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Amendments begins on the next page:

## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER 9: SPECIAL COURSES OF STUDY

## PART 260

## READING IMPROVEMENT PROGRAM

Section	Definitions (Repealed)
260.10	Definitions (Repealed)
260.20	Purpose
260.30	Eligible Applicants
260.40	Allowable Expenditures
260.50	Procedure and Criteria for Approval of Applications
260.60	Allocation of Funds (Repealed)
260.70	Distribution of Grant Awards
260.80	Reporting

AUTHORITY: Implementing and authorized by Section 2-3.51 of the School Code [105 ILCS 5/2-3.51].

SOURCE: Emergency rules adopted at 9 Ill. Reg. 15967, effective October 2, 1985, for a maximum of 150 days; adopted at 10 Ill. Reg. 7757, effective April 29, 1986; amended at 14 Ill. Reg. 20714, effective December 14, 1990; amended at 16 Ill. Reg. 14196, effective September 8, 1992; amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 260.10 Definitions (Repealed)

"Aides" means noncertificated personnel employed in the manner provided in 23-III-Adm-Code-1-639 (Public Schools Evaluation Recognition and Supervision) and for the purposes authorized in Section 2-3.51 of the School Code (III-Rev-Stat-1989-ch-122-par-2-3.51).

"Books" means items such as library books, textbooks and periodicals provided that they are an integral part of the district's reading and/or study skills improvement program.

"Other Personnel" means those individuals other than reading specialists and teacher aides providing instructional and other services integral to the district's reading and/or study skills improvement program.

"Other printed materials" means items such as reading kits, filmstrips and other audio-visuals and instructional software specifically designated for use in a district's reading and/or study skills improvement program.



## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED AMENDMENTS

"Reading-Specialists" means a teacher whose major teaching assignment is reading and who is qualified according to the requirements of 23 Ill. Adm. Code 1-740 (Public Schools--Evaluation--Recognition--and Supervision) or who possesses a special certificate endorsed for teaching reading in accordance with the requirements of 23 Ill. Adm. Code 25-40 (Certification).

"Study-Skills" means those strategies and techniques that help a person acquire knowledge and skill for a specific purpose. Study skills commonly include the ability to follow directions, locate, select, and organize and retain information, and interpret narrative, graphic and other forms of information.

(Source: Repealed at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 260.20 Purpose

This Part establishes the procedure and criteria for submission and approval of applications for reading improvement block grant funds pursuant to assistance in providing reading and/or study skills improvement programs in grades K-6 as authorized by Section 2-3.51 of the School Code [105 ILCS 5/2-3.51].

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 260.30 Eligible Applicants

Eligible applicants are public elementary and unit school districts and public university laboratory schools providing instruction in grades K-6. Commencing with Fiscal Year 2001, eligible applicants shall be only those that have made performance progress as required by Section 2-3.51 of the School Code.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 260.40 Allowable Expenditures

a) Allowable expenditures consist of expenditures attributable to the purposes enumerated for reading specialists, teacher aides and other personnel and for the acquisition of books and other printed materials to the extent provided in subsection (a-5) of Section 2-3.51 of the School Code and this Part.

b) The State Board of Education is authorized to help meet a district's cost of employing reading specialists, provided that no school district shall be eligible to receive payment for more than one reading specialist for each 15-certificated teachers or major full-time equivalent portion thereof employed by the district for classroom teaching of pupils in kindergarten through grade six.

## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED AMENDMENTS

c) The State Board of Education is authorized to help meet a district's cost of employing teacher aides, provided that no school district shall be eligible to be paid under this Section for more than one teacher aide for each 3-certificated teachers employed by the district for classroom teaching of pupils in kindergarten through grade six (Section 2-3.51 of the School Code).

d) Each person employed as a teacher aide pursuant to this Part must work under the supervision of a certificated teacher and, as a condition precedent to that employment, either shall have earned at least 30 semester hours of college credit or shall have successfully completed a Teacher Aide Program at an institution approved by the State Board of Education pursuant to 23 Ill. Adm. Code 25-540 (Certification).

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 260.50 Procedure and Criteria for Approval of Applications

a) The State Board of Education shall provide application forms and shall notify each eligible applicant of the maximum amount of its entitlement pursuant to Section 2-3.51 of the School Code. Each application form shall set forth the applicant's most recent available scores on the reading portion of the State assessment required pursuant to Section 2-3.64 of the School Code and shall require the applicant to provide: Eligible applicants must submit a completed application on forms provided by the State Board of Education which will include:

- 1) a total grant request equal to or less than the amount for which the applicant is eligible in accordance with Section 2-3.51 of the School Code;
- 2) assurance that the applicant will comply with the provisions of Section 2-3.51 of the School Code and this Part; and
- 3) information identifying the purposes for which the applicant plans to use the funds provided pursuant to this Part describing the local school district's proposed program including program goals, objectives and activities, and a proposed evaluation procedure designed to assess student reading and/or study skills improvement achieved through the program; and 4) a detailed budget and budget summary of proposed expenditures eligible under Section 2-3.51 of the School Code and this Part, including salaries, employee benefits, purchased services, and supplies and materials.

b) Applications must be submitted to the State Board of Education by the date specified on the form. This date will be determined so that all eligible applicants districts will have at least thirty (30) days to complete and submit the form. An applicant's A-school-district's failure to comply with this requirement will delay its receipt of program assistance pursuant to Section 260.70 of this Part.

## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED AMENDMENTS

- c) Information provided in the application ~~required in Section 260-50(f)~~ will be reviewed by State Board of Education staff to determine that the information demonstrates compliance with Section 2-3.51 of the School Code and this Part.
- d) State Board staff shall notify will send a written notice to applicants of specifying any requested information that is missing from the application. An application shall not be approved for funding until it is complete.
- e) The State Superintendent of Education will approve applications that demonstrate compliance with Section 2-3.51 of the School Code and this Part except that the State Superintendent shall invoke subsection (d) of this Section with respect to any requested information that is missing from any such application submitted for final approval.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 260.60 Allocation of Funds (Repealed)

The State Superintendent of Education shall determine the amount of individual grant awards on the basis of the criteria contained in Section 2-3.51 of the School Code.

(Source: Repealed at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 260.70 Distribution of Grant Awards

Distribution of grant awards to local school districts shall be made on or before the dates specified in Section 2-3.51 of the School Code, provided that complete applications have been received by the State Board of Education by the date specified on the application form.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 260.80 Reporting

In order to permit compliance with subsection (a-15) of Section 2-3.51 of the School Code, recipients of funds under this program shall annually report to the State Board of Education, on a form supplied by the State Board, regarding their uses of the funds provided and the results achieved in terms of improving the reading skills of students in grades kindergarten through six. Annual reports shall address such areas as:

- the numbers of students served;
- the numbers of teachers involved;
- any transitional grades created;
- the impact of reductions in class size; and

## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED AMENDMENTS

- e) the nature of staff development provided.

(Source: Added at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



## ENVIRONMENTAL PROTECTION AGENCY

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED RULE

## NOTICE OF PROPOSED RULE

- 1) **Heading of the Part:** Determination of Ammonia Nitrogen Water Quality  
Based Effluent Limits for Discharges to General Use Waters

- 2) **Code Citation:** 35 Ill. Adm. Code 355

- 3) **Section Numbers:** Proposed Action:

355.101 New Section  
355.103 New Section  
355.201 New Section  
355.203 New Section  
355.205 New Section  
355.207 New Section  
355.209 New Section  
355.211 New Section  
355.301 New Section  
355.303 New Section  
355.305 New Section  
355.307 New Section  
355.309 New Section  
355.311 New Section  
355.313 New Section  
355.315 New Section  
355.317 New Section

- 4) **Statutory Authority:** Implementing and authorized by the Illinois Environmental Protection Act [415 ILCS 5].

- 5) **A Complete Description of the Subjects and Issues Involved:** On December 19, 1996 the Illinois Pollution Control Board revised its water quality standards for ammonia nitrogen. When the Agency issues National Pollutant Discharge Elimination System (NPDES) permits, it must include any effluent limits necessary to meet water quality standards pursuant to 35 Ill. Adm. Code 309.141(d)(1). In addition to acute and chronic ammonia nitrogen water quality standards that are applicable during the summer months of March through October and the winter months of November through April, the Board created the concept of Effluent Modified Waters (EMWs) provision of the standard. A receiving stream which is designated as EMW must meet the acute ammonia nitrogen water quality standards and cannot be adversely impacted by ammonia nitrogen. Any discharge into an EMW cannot exceed effluent limits of 1.5 mg/L in summer or 4.0 mg/L in winter, must maintain its existing level of treatment and demonstrate that new or increased ammonia nitrogen loadings to the stream will not cause degradation. This Part sets out the procedures that the Agency will follow to determine ammonia nitrogen water quality based effluent limits for discharges to general use waters and to determine effluent modified waters.

- 6) Will this proposed rulemaking replace an emergency rule currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No  
8) Does this rulemaking contain incorporations by reference? No  
9) Are there other proposed amendments pending on this Part? No

- 10) **Statement of Statewide Policy Objectives:** This rulemaking does not create or expand a mandate under Section 3 of the State Mandates Act [30 ILCS 805/3]. These proposed rules are consistent with the policy objectives set out in Section 4 of the Illinois Environmental Protection Act [415 ILCS 5/4].

- 11) **Time, Place and Manner in which interested persons may comment on this proposed rulemaking:** Comments on this rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Toby Frevert  
Division of Water Pollution Control  
Bureau of Water  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
(217)782-1654

- 12) **Initial Regulatory Flexibility Analysis:**

A) **Types of small businesses, small municipalities and not for profit corporations affected:** The National Pollutant Discharge Elimination System Permit program administered by the Illinois Environmental Protection Agency will affect small businesses, small municipalities and not-for-profit corporations that discharge pollutants into waters of the State.

B) **Reporting, bookkeeping and other procedures required for compliance:** No reporting, bookkeeping or other procedures are required for compliance with this proposed rule.

C) **Types of skills necessary for compliance:** No additional professional skills are required by this rulemaking.

- 13) **Regulatory Agenda on which this rulemaking was summarized:** This rule was not included on either of the 2 most recent agendas because: this rulemaking was not summarized in its present form on a Regulatory Agenda.

The full text of the Proposed Rules begins on the next page:

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED RULE

## TITLE 35: ENVIRONMENTAL PROTECTION

## SUBTITLE C: WATER POLLUTION

## CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

## PART 355

DETERMINATION OF AMMONIA NITROGEN WATER QUALITY BASED EFFLUENT LIMITS  
FOR DISCHARGES TO GENERAL USE WATERS

## SUBPART A: INTRODUCTION

Section  
355.101 Purpose, Scope and Application  
355.103 Definitions

## SUBPART B: AMMONIA NITROGEN (as N) WATER QUALITY STANDARDS AND WQBELS

355.201 Introduction  
355.203 Conversion of Total Ammonia and Unionized Ammonia Nitrogen  
355.205 Estimation of Projected Effluent Quality  
355.207 Mixing Allowance  
355.209 Calculation of Preliminary Effluent Limitation  
355.211 Summary of the Results for a Reasonable Potential Analysis and the Determination of Ammonia Nitrogen WQBELS

## SUBPART C: EFFLUENT MODIFIED WATERS

355.301 Introduction  
355.303 EMW Application Requirements  
355.305 Evaluation of EMW Applications  
355.307 Determination of EMW Designation  
355.309 Procedures for Delineating an EMW  
355.311 Ammonia Nitrogen Decay Equation  
355.313 Restrictions Applicable to Discharges with EMWs  
355.315 Publication of EMWs  
355.317 Ammonia Action Levels

AUTHORITY: Implementing and authorized by the Illinois Environmental Protection Act [415 ILCS 5].

SOURCE: Adopted at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

NOTE: In this Part, unless the context clearly indicates otherwise, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets.

## SUBPART A: INTRODUCTION

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED RULE

## Section 355.101 Purpose, Scope and Application

- a) This Subpart contains procedures to determine water quality based effluent limits for ammonia nitrogen (as N) (ammonia nitrogen WQBELs) that are necessary to prevent waters of the State from exceeding water quality standards pursuant to 40 CFR 122.44(d)(1) and 35 Ill. Adm. Code 309.141(d)(3). Ammonia nitrogen WQBELs must be sufficient to ensure compliance with the water quality standards for ammonia nitrogen found in the Illinois Pollution Control Board (IPCB) regulations at 35 Ill. Adm. Code 302.202, 302.212, 302.213 and 304.122.
- b) Ammonia nitrogen WQBELs are applicable to the general use waters of the State.
- c) There shall be an opportunity for compliance with the ammonia nitrogen water quality standards as provided by the IPCB regulations through application of allowed mixing, mixing zones and zones of initial dilution at 35 Ill. Adm. Code 302.102 and 302.213.
- d) In addition to water quality based effluent limits, the discharge of ammonia nitrogen from a facility may be limited based on other provisions in the Environmental Protection Act [415 ILCS 5] (Act) and regulations adopted thereunder or the Federal Water Pollution Control Act, 33 USC 1251-1387 (FWPCA) and regulations adopted thereunder.

## Section 355.103 Definitions

All terms in this Part shall have the meanings set forth in the Environmental Protection Act and in the IPCB regulations under 35 Ill. Adm. Code 301 and 302 except, for purposes of this Part, the following definitions apply:

"7Q10" means seven day once in ten year low flow.

"AAL" means ammonia action level. AALs are numerical values established in National Pollutant Discharge Elimination System (NPDES) permits that are based on the historical ammonia nitrogen removal performance of a facility. When exceeded, AALs trigger special conditions in the permit pertaining to the continued designation of an EMW. AALs assure that dischargers strive to achieve the best degree of ammonia nitrogen treatment possible utilizing the technology currently available at a given facility.

"AWQMN" or "Ambient Water Quality Monitoring Network" means the network of sampling stations maintained by the Agency and located on streams throughout the State.

"Agency" means the Illinois Environmental Protection Agency.

"Ammonia decay" refers to the cumulative effect of nitrification, volatilization, plant uptake, and other processes that reduce the



## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED RULE

concentration of ammonia nitrogen in waters by natural means.

"cfs" means cubic feet per second.

"DAF" means design average flow.

"DMR" means discharge monitoring report.

"EMW" or "Effluent Modified Water" means those waters or portions of waters that the Agency has determined, pursuant to 35 Ill. Adm. Code 302.213, are not subject to the chronic ammonia nitrogen standards of 35 Ill. Adm. Code 302.212(b).

"IPCB" means the Illinois Pollution Control Board.

"ISWS" means the Illinois State Water Survey, a part of the Office of Scientific Research and Analysis in the Illinois Department of Natural Resources.

"MGD" means million gallons per day.

"OUTLIER" is a test value that is not statistically valid.

"PEL" or "Preliminary Effluent Limitation" is an estimate of an allowable discharge concentration taking into consideration allowed mixing or dilution.

"PEQ" or "Projected Effluent Quality" is the maximum contaminant concentration estimated to be discharged by a facility or activity taking into account statistical analysis of the discharge or activity.

"Reasonable Potential Analysis" or "Reasonable Potential to Exceed" means the procedure to predict whether an existing or future discharge may cause or contribute to a violation of water quality standards, criteria or values.

"Summer" means the months of April through October, inclusive.

"USEPA" means the United States Environmental Protection Agency.

"USGS" means the United States Geological Survey.

"WQBEL" or "Water Quality Based Effluent Limit" means an NPDES permit limit that ensures that applicable water quality standards and criteria are met in waters where such standards and criteria apply.

"Winter" means the months of November through March, inclusive.

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED RULE

## SUBPART B: AMMONIA NITROGEN (as N) WATER QUALITY STANDARDS AND WQBELS

## Section 355.201 Introduction

The need for an ammonia nitrogen (as N) WQBEL is based on the reasonable potential of a discharge to cause or contribute to a violation of the applicable ammonia nitrogen water quality standard. During the NPDES permit review process, the Agency shall conduct an analysis of the reasonable potential for ammonia to exceed or contribute to excursions above the ammonia nitrogen water quality standard that may occur in the receiving water. This analysis shall be conducted for both acute and chronic winter and summer ammonia nitrogen water quality standards.

a) The first step in the reasonable potential analysis is to compare the Projected Effluent Quality (PEQ), as provided in Section 355.205, to the water quality standard as converted to total ammonia nitrogen as provided in Section 355.203. If the PEQ is less than or equal to the water quality standard as converted to total ammonia nitrogen as provided in Section 355.203, then no reasonable potential to exceed the standard exists and no effluent limitation will be established in the permit unless otherwise warranted under subsection (c) of this Section.

b) If the PEQ exceeds the applicable water quality standard as converted to total ammonia nitrogen as provided in Section 355.203, the analysis shall proceed to the second step as provided in Section 355.207.

c) If untreated wastewater contains ammonia nitrogen at levels in which a reasonable potential to exceed water quality standards as converted to total ammonia nitrogen as provided in Section 355.203 exists, then the discharge of ammonia nitrogen shall be limited in the NPDES permit by an ammonia nitrogen WQBEL. Even if there appears to be no potential to exceed the water quality standards based on the effluent quality analysis in subsection (a) or (b), an ammonia nitrogen WQBEL shall be established.

## Section 355.203 Conversion of Total Ammonia and Unionized Ammonia Nitrogen

The numeric water quality standards for ammonia nitrogen in 35 Ill. Adm. Code 302.212 are established as the unionized fraction of the total ammonia nitrogen present, since the unionized component more closely relates to the toxicology information utilized in deriving the ammonia nitrogen standard. However, most discharge monitoring data used in deriving a PEQ will be in the form of total ammonia nitrogen. WQBELs will be set as total ammonia nitrogen concentrations.

The conversion formula contained in 35 Ill. Adm. Code 302.212 shall be used to estimate the portion of total ammonia nitrogen that exists in the unionized condition. The primary variables effecting the equilibrium between ionized and unionized fractions are temperature and pH. Both stream temperature and pH can be expected to be different than discharge temperature and pH; therefore, the conversion calculation will be based on conditions expected to exist downstream of the discharge.

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED RULE

- a) When stream specific data are available, the pH and temperature used in this conversion will be set at the 75th percentile (75 percent of the values are less than). Conversion calculations will be performed for both the winter and summer seasons.
- b) When stream specific data is not available, data from the closest representative Agency water quality monitoring station during the most recent five years will be used in this conversion. The temperature will be set at the 75th percentile (75 percent of the values are less than). The 75th percentile pH value (75 percent of the values are less than) will be used for the conversion of the acute water quality standard, and the 50th percentile (50 percent of the values are less than) will be used for the conversion of the chronic water quality standard. Conversion calculations will be performed for both the winter and the summer seasons.

## Section 355.205 Estimation of Projected Effluent Quality

The Projected Effluent Quality (PEQ) is the estimation of the maximum expected effluent concentration. Individual PEQs shall be estimated for both summer and winter acute and chronic exposure periods.

- a) The PEQ shall be derived from representative facility specific data to reflect a 95 percent confidence level for the 95th percentile value. These data will be presumed to adhere to a log normal distribution pattern with a coefficient of variation of 0.6 unless the facility's effluent data demonstrates a different distribution pattern. If facility specific data in excess of 10 data values is available, a facility specific coefficient of variation that is the ratio of the standard deviation to the arithmetic average may be calculated. The PEQ is derived as the upper bound of a 95 percent confidence bracket around the 95th percentile value through a multiplier from the following table applied to the maximum value in the data set that has its quality assured consistent with subsection (e) as appropriate for acute and chronic data sets.

PEQ = (maximum data point)(statistical multiplier)

No. of Samples	Coefficient of Variation					
	0.1	0.2	0.3	0.4	0.5	0.6 0.7
1	1.4	1.9	2.6	3.6	4.7	6.2 8.0
2	1.3	1.6	2.0	2.5	3.1	3.8 4.6
3	1.2	1.5	1.8	2.1	2.5	3.0 3.5
4	1.2	1.4	1.7	1.9	2.2	2.6 2.9
5	1.2	1.4	1.6	1.8	2.1	2.3 2.6
6	1.1	1.3	1.5	1.7	1.9	2.1 2.4
7	1.1	1.3	1.4	1.6	1.8	2.0 2.2
8	1.1	1.3	1.4	1.6	1.7	1.9 2.1
9	1.1	1.2	1.4	1.5	1.7	1.8 2.0

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED RULE

10	1.1	1.2	1.3	1.5	1.6	1.7	1.9
11	1.1	1.2	1.3	1.4	1.6	1.7	1.8
12	1.1	1.2	1.3	1.4	1.5	1.6	1.7
13	1.1	1.2	1.3	1.4	1.5	1.6	1.7
14	1.1	1.2	1.3	1.4	1.4	1.5	1.6
15	1.1	1.2	1.2	1.3	1.4	1.5	1.6
16	1.1	1.1	1.2	1.3	1.4	1.5	1.6
17	1.1	1.1	1.2	1.3	1.4	1.4	1.5
18	1.1	1.1	1.2	1.3	1.3	1.4	1.5
19	1.1	1.1	1.2	1.3	1.3	1.4	1.5
20	1.1	1.1	1.2	1.2	1.3	1.4	1.4
30	1.0	1.1	1.1	1.1	1.2	1.2	1.2
40	1.0	1.0	1.1	1.1	1.1	1.1	1.1
50	1.0	1.0	1.0	1.0	1.0	1.0	1.0
60 or greater	1.0	1.0	1.0	1.0	1.0	1.0	1.0

## Coefficient of Variation

No. of Samples	0.8	0.9	1.0	1.1	1.2	1.3
1	10.1	12.6	15.5	18.7	22.3	26.4
2	5.4	6.4	7.4	8.5	9.7	10.9
3	4.0	4.6	5.2	5.8	6.5	7.2
4	3.3	3.7	4.2	4.6	5.0	5.5
5	2.9	3.2	3.6	3.9	4.2	4.5
6	2.6	2.9	3.1	3.4	3.7	3.9
7	2.4	2.6	2.8	3.1	3.3	3.5
8	2.3	2.4	2.6	2.8	3.0	3.2
9	2.1	2.3	2.4	2.6	2.8	2.9
10	2.0	2.2	2.3	2.4	2.6	2.7
11	1.9	2.1	2.2	2.3	2.4	2.5
12	1.9	2.0	2.1	2.2	2.3	2.4
13	1.8	1.9	2.0	2.1	2.2	2.3
14	1.7	1.8	1.9	2.0	2.1	2.2
15	1.7	1.8	1.8	1.9	2.0	2.1
16	1.6	1.7	1.8	1.9	1.9	2.0
17	1.6	1.7	1.7	1.8	1.9	1.9
18	1.6	1.6	1.7	1.7	1.8	1.9
19	1.5	1.6	1.6	1.7	1.8	1.8
20	1.5	1.5	1.6	1.6	1.7	1.7
30	1.3	1.3	1.3	1.3	1.4	1.4
40	1.1	1.2	1.2	1.2	1.2	1.2
50	1.1	1.1	1.1	1.1	1.1	1.1
60 or greater	1.0	1.0	1.0	1.0	1.0	1.0

- 1) If the PEQ determined in Section 355.205 is less than or equal to the applicable water quality standard, there is no reasonable potential and no WQBEL will be established in the permit unless otherwise warranted under Section 355.201(c).



## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED RULE

- 2) If the PEQ exceeds the applicable water quality standard but does not exceed the PEL determined through Section 355.209, there is no reasonable potential and no WQBEL will be established unless otherwise warranted under Section 355.201(c).
- b) The Agency shall compare monthly average effluent data values, when available, with the chronic water quality standard to evaluate the need for monthly average WQBEL. If a monthly average WQBEL is included in an NPDES permit, the Agency will also include a daily maximum WQBEL to enforce the acute water quality standard.
- c) The Agency may apply other scientifically defensible statistical methods for calculating PEQ at the 95th percentile value for use in the reasonable potential analysis.
- d) Regardless of the statistical procedure used, if the PEQ for ammonia nitrogen (as N) is less than or equal to the water quality standard, the Agency shall deem the discharge not to have a reasonable potential to exceed and a WQBEL shall not be required unless otherwise required under Section 355.201.
- e) Data Requirements
 

The derivation of PEQ is based on the effluent quality demonstrated by self-monitoring data as required by the NPDES permit or Agency-generated data, such as effluent sampling or facility-related stream studies. Effluent data used in the derivation of PEQ shall be representative of the concentration and variability of ammonia nitrogen in the discharge anticipated for the applicable period of the NPDES permit. Data shall be collected and analyzed in accordance with USEPA or Agency approved sampling and analytical methods. The following criteria shall be followed in data selection:

  - 1) the most recent five years of data shall be used unless the Agency determines that an alternative period better represents the time period for which effluent quality is being projected. Such alternative time periods may include, but are not limited to, shorter periods that reflect changed discharge characteristics resulting from changes in manufacturing activities or wastewater treatment systems; and
  - 2) data outliers and other anomalies resulting from collection, analysis or recording errors or atypical plant operating conditions may be eliminated from the data.

**Section 355.207 Mixing Allowance**

If the PEQ for ammonia nitrogen (as N) is greater than the water quality standard, the Agency shall assess the level of treatment being provided by the discharger. If the discharger is providing (or will be providing) a level of treatment consistent with the best degree of treatment required by 35 Ill. Adm. Code 304.102(a), the PEQ derived under Section 355.205 shall be compared to the PEL determined by applying allowed dilution to the discharge consistent with Section 355.209.

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED RULE

**Section 355.209 Calculation of Preliminary Effluent Limitation**

- a) The preliminary effluent limitation (PEL) is calculated in a mass balance approach reflecting allowed dilution as referenced in Section 355.207:

$$WQS = [(Q(e))(PEL) + (Q(d))(C(d))]/(Q(e) + Q(d))$$

or

$$PEL = [WQS(Q(e) + Q(d)) - (Q(d))(C(d))]/Q(e)$$

where:

WQS = applicable water quality standard as converted to total ammonia nitrogen pursuant to Section 355.203

Q(e) = effluent flow rate

Q(d) = allowing mixing flow rate

- b) The reasonable potential analysis shall be completed separately for the winter and summer seasons and for acute and chronic water quality standards. WQBELs based on the acute water quality standard shall be expressed as a daily maximum. WQBELs based on the chronic water quality standard shall be expressed as a monthly average.

**Section 355.211 Summary of the Results for a Reasonable Potential Analysis and the Determination of Ammonia Nitrogen WQBELs**

- a) If the PEQ determined in Section 355.205 is less than or equal to the applicable water quality standard, there is no reasonable potential and no WQBEL will be established in the permit unless otherwise warranted under Section 355.201(c).
- b) If the PEQ exceeds the applicable water quality standard but does not exceed the PEL determined through Section 355.209, there is no reasonable potential and no WQBEL shall be established unless otherwise warranted under Section 355.201(c).
- c) If the PEQ exceeds the PEL determined through Section 355.209, there is reasonable potential to exceed the standard and the PEL shall be established as the WQBEL.
- d) If a WQBEL is warranted under Section 355.201(c), the WQBEL shall be set at the PEL as determined through Section 355.209.

## SUBPART C: EFFLUENT MODIFIED WATERS

**Section 355.301 Introduction**

IPCB regulations at 35 Ill. Adm. Code 302.202, 302.213, and 304.122 establish provisions for designating waters as EMWs. EMWs are subject to all general use water quality standards except for the chronic ammonia nitrogen water quality standards of 302.212(b). This Section provides for the designation of an EMW wherein the chronic portion of the unionized standard is inapplicable. In lieu

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED RULE

of the chronic standard, the IPCB established discharge restrictions for any discharge tributary to an EMW. These restrictions include a monthly average limit on discharges at 1.5 mg/L total ammonia nitrogen during the April through October summer season and 4.0 mg/L total ammonia nitrogen during November through March as monthly averages. Beyond these monthly average limits, there is also a provision to assure continuation of the existing level of performance and adherence to the nondegradation provision of 35 Ill. Adm. Code 302.105. The criteria for designation of an EMW include two specific provisions: the water body must have the potential to exceed the chronic standard due to a permitted discharge; and the elevated chronic ammonia nitrogen concentration will not adversely impact known uses of the affected stretch of the water body. EMW status shall be designated in the receiving water body if:

- a) aquatic life expected to exist in the receiving waters is known to be tolerant of the projected ammonia nitrogen concentrations resulting from the treatment plant effluent in conjunction with ambient conditions;
- b) the receiving stream does not exceed the acute water quality standard of 35 Ill. Adm. Code 302.212(b); and
- c) the discharger demonstrates a reasonable potential to exceed the chronic ammonia nitrogen standard pursuant to Subpart B of this Part. If an EMW cannot be granted, then monthly average effluent limits in the NPDES permit shall be determined from the procedures for establishing ammonia nitrogen WQBELs pursuant to Subpart B of this Part. If necessary, a schedule to attain compliance with these limits shall also be included in the discharger's NPDES permit.

**Section 355.303 EMW Application Requirements**

The Agency shall consider designating a portion of the receiving waterbody as an EMW upon receipt of a valid application for an EMW and when the provisions of this Subpart are met.

- a) All applicants shall provide:
    - 1) the name, address and design average flow of the facility;
    - 2) all instream ammonia nitrogen, pH and water temperature data collected by or available to the applicant;
    - 3) a physical description of the receiving stream including information on depth, substrate, instream cover, average width, percent canopy, riffle-pool sequence, stream gradient and other pertinent factors that the discharger wishes to be considered; and
    - 4) any other information concerning the receiving waterbody that the applicant believes is relevant.
- Receiving stream information must be collected from the reach anticipated to constitute the requested EMW and continuing downstream for an additional distance comprising 33% of the requested EMW length.
- b) Applicants having one or more of the following characteristics shall supply, in addition to the information in subsection (a), additional information that may be required under subsection (c) below:

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED RULE

- 1) a DAF larger than 0.25 MGD;
- 2) a receiving stream with springs, or other sources of permanent flow constituting 7Q10 flows of greater than zero (excluding the applicant's discharge), upstream or within the reach of the anticipated EMW; or
- 3) a discharge location on a receiving stream evaluated under the Agency's Biological Stream Characterization (BSC) program and having received an "A" or "B" rating, provided the discharge is located no more than four stream miles upstream of the furthest upstream BSC monitored site.

c) Dischargers applying for EMW status and having one or more of the characteristics of subsection (b) above must also supply the following information:

- 1) Stream survey data that assesses ammonia nitrogen impact to the aquatic life of the receiving stream. Generally, data collected within the past five years that are reflective of current loading, stream flow, and physical conditions are preferred. Older data may suffice if none of the mentioned potential changes have occurred. However, any additional data concerning the aquatic life community of the receiving stream must be included in the application as it becomes known to the discharger. The Agency may have previously conducted such studies and these may satisfy this requirement; and
- 2) Data concerning the presence of sensitive species including threatened and endangered federally or State listed aquatic species, self-sustaining populations of cold water species or species of special significance regarding their sensitivity to ammonia nitrogen. Such data may be available from one or more of the following sources or other local or regional sources:
  - A) the Illinois Natural History Survey (INHS);
  - B) the Division of Natural Heritage (Illinois Department of Natural Resources);
  - C) the report "Biologically Significant Illinois Streams", a publication of the INHS (Center for Biological Diversity Technical Report 1992(1)); or
  - D) local colleges and universities.

**Section 355.305 Evaluation of EMW Applications**

The Agency shall evaluate EMW applications based on all information provided pursuant to Section 355.303, as well as information available from the Agency's monitoring programs. Additionally, the Agency shall seek and obtain information from other Illinois natural resource agencies. Such information shall include the following:

- a) biological studies conducted on the receiving water;
- b) ammonia nitrogen, pH, and temperature data from ambient, intensive basin, or facility-related stream surveys;
- c) ammonia nitrogen, pH and temperature effluent data;



ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED RULE

- d) physical instream habitat data; or
- e) total ammonia nitrogen loading and related information attributed to other sources in the affected reach.

Section 355.307 Determination of EMW Designation

Upon evaluating the EMW application and any additional information available, the Agency shall determine whether the receiving stream can be designated as an EMW based on the provisions of 35 Ill. Adm. Code 302.213, 304.122, and 355.305.

- a) If the Agency determines that a receiving stream cannot be designated as an EMW, the Agency shall notify the applicant in writing as to its decision and the basis for that decision.
- b) If a receiving stream can be designated as an EMW, the Agency shall issue a public notice that contains:
  - 1) determination of the length of the EMW, and
  - 2) summary of the ecological analysis used in the EMW designation process.

Section 355.309 Procedures for Delineating an EMW

The methodology for determining the length of a water body to be designated as EMW shall be based on the chronic total ammonia nitrogen (as N) water quality standard for winter conditions and a decay coefficient representing colder ambient conditions as indicated in Section 355.311. Winter conditions depict the "worst-case" ammonia nitrogen decay rates and are to be used when calculating the reach of a water body to be designated as EMW. This modeling shall be performed in the following manner:

- a) Downstream waters shall be subdivided into segments where discharge and stream cross-sectional area are uniform. Segments will typically begin at confluences with other streams or where additional point sources of total ammonia nitrogen (as N) enter the receiving water.
- b) The DAF for domestic wastewater treatment plants and the maximum flow for industrial plants and other point sources of ammonia nitrogen (as N) downstream will be used as effluent flow rates in the analysis. A 7Q10 flow rate shall be determined for each segment. Discharge rates under 7Q10 conditions are to be obtained from maps generated by the IWS unless the Agency has previously approved an alternate 7Q10 discharge rate.
- c) The average velocity for each segment shall be derived for 7Q10 discharge conditions. In the absence of field measurements, velocity shall be determined from hydraulic geometry equations derived by the IWS. These equations are published in the University of Illinois Water Resources Center publication, "WRC Research Report No. 15, Hydraulic Geometry of Illinois Streams". A minimum velocity of 0.2 ft/sec will be used unless field measurements indicate that a different velocity exists during 7Q10 conditions.
- d) The chronic water quality standard shall be converted to total ammonia nitrogen (as N) as outlined in Section 355.203.

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED RULE

- e) The concentrations of ammonia nitrogen in the effluents shall be the same as the monthly average winter ammonia nitrogen permit limit for the point source. If no monthly average winter ammonia nitrogen permit limit exists, then a value of 4.0 mg/L shall be used.
- f) The ammonia nitrogen concentration at the end of each segment shall be calculated using the equations contained in Section 355.311. The point at which the water quality standard will be met shall be the downstream terminus of the EMW. The length of the EMW shall equal the sum of all segment lengths, but in no case shall be less than 100 yards in length.
- g) The permittee has the opportunity to submit field measurements to be used in this analysis.

Section 355.311 Ammonia Nitrogen Decay Equation

A decay equation shall be used to predict instream ammonia nitrogen concentrations at locations downstream of the outfall thereby determining the linear extent of the EMW.

- a) Modeling of the decay (conversion to nitrite/nitrate) of ammonia nitrogen from a discharge and predicting the levels of ammonia nitrogen at points downstream from the discharge shall follow the decay equation:
 
$$C[nf] = [(Q[n] C[n] + Q[n-1] C[n-1]) / (Q[n-1] + Q[n])] \times e^{-kt}$$

where the parameters used in the decay equation are defined as follows:

- $C[nf]$  = ammonia nitrogen concentration at the end of segment "n"
- $t$  = travel time to point "n" (days)
- $Q[n]$  = additional flow introduced into segment "n" (cfs) (see Section 355.309(b) for initial segment)
- $C[n]$  = ammonia nitrogen concentration introduced into segment "n" (monthly average effluent limit for initial segment)
- $Q[n-1]$  = upstream 7Q10 flow rate or flow rate entering segment "n" from previous segment (cfs)
- $C[n-1]$  = upstream ammonia nitrogen concentration entering segment "n" from previous segment
- $k$  = first order decay coefficient used in determining the natural biological, physical, and chemical degradation of ammonia nitrogen that occurs. The value of "k" may vary as a function of the receiving stream characteristics. In the absence of stream specific data, a representative value shall be selected from studies of streams with similar characteristics and shall be used in calculations as a default value representative of winter ammonia nitrogen decay.
- b) Where no upstream flow is available for mixing and no additional sources of ammonia nitrogen are present downstream, the equation reduces to the following:
 
$$C[nf] = C[n] e^{-kt}$$

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED RULE

where:

C[nf] = the applicable winter chronic water quality standard

C[n] = monthly average winter effluent limit

### Section 355.313 Restrictions Applicable to Dischargers with EMWs

When the Agency issues a publication of a draft NPDES permit designating an EMW, effluent limits for ammonia nitrogen shall be protective of the aquatic community known to be present or likely to be present in the EMW as provided in 35 Ill. Adm. Code 304.122.

- In no instance shall these effluent limits exceed 30 day average concentrations of 1.5 mg/L total ammonia nitrogen (as N) during the months of April through October, and 4.0 mg/L total ammonia nitrogen (as N) during the months of March through November.
- When uses are at risk of impact due to increased concentrations of ammonia nitrogen, more stringent 30 day average effluent limits shall be incorporated.
- The draft permit shall also include daily maximum effluent limits for total ammonia nitrogen (as N) and these shall be determined by applying the acute water quality standards of 35 Ill. Adm. Code 302.212(b) pursuant to Section 355.203.
- The Agency shall include AALs in the NPDES permit pursuant to Section 355.317.
- The Agency shall take final action as to the designation of an EMW concurrent with final NPDES permit issuance.

### Section 355.315 Publication of EMWs

The Agency shall compile the number and length of EMWs and report with information in each edition of the Illinois Water Quality Report pursuant to Section 305(b) of the Federal Clean Water Act, as amended, 33 USC 1315(b).

### Section 355.317 Ammonia Action Levels

Ammonia Action Levels (AALs) apply to permittees who have been granted EMWs and shall be included in the NPDES permit as follows:

- AALs shall be determined using the methodology outlined in Section 355.205. A value of 0.6 shall be used as the coefficient of variation (CV) unless the applicant has supplied information justifying an alternate coefficient of variation. A CV value may then be calculated from the monthly average effluent data using the formula:  
CV = Standard Deviation/Mean
- Monthly average AALs shall be derived for both summer (April through October) and winter (November through March) months. The total number of summer and winter monthly average ammonia nitrogen values is used to determine a multiplier that is then applied to the highest of these monthly averages (recalculated if daily values from the month are

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED RULE

found to be outliers) for each season. Data reflecting the previous five years of effluent quality shall be used. However, if current treatment performance or operation of the plant is not represented by the five year period, only that data representing the current treatment performance or operation shall be used.

- AALs shall apply to permittees granted the EMW exemption from chronic water quality standards and shall be reevaluated at the renewal of each NPDES permit. AALs shall not be included in the permit when the statistical procedure described in subsection (a) indicates that the PBQ for summer and winter conditions exceeds the 1.5/4.0 mg/L effluent limits, respectively.
- When monthly average effluent concentrations exceed the AAL, the permittee shall notify the Agency regarding the AAL exceedance. This notification shall include an explanation for the excursion and all pertinent information/data regarding the ammonia nitrogen removal treatment processes for the period in which the exceedance occurred. Certain factors may inhibit the ammonia nitrogen treatment processes or increase ammonia loading to a treatment facility, often resulting in higher effluent concentrations. Such factors include, but are not limited to:
  - extreme weather conditions;
  - substantial increases in organic or hydraulic loading;
  - changes in influent water chemistry; or
  - temporary changes in treatment processes, equipment malfunction or other unforeseen occurrences.
- The Agency shall calculate and apply AALs to dischargers with DAFs above 0.25 MGD.
- In no case shall AALs be less stringent than the chronic ammonia nitrogen water quality standards applicable to the receiving stream pursuant to Section 355.203.
- If AALs are exceeded and notification pursuant to subsection (d) of this Section is provided to the Agency, then the permit shall be revised to establish the June 1, 1998 previously calculated AAL value as the effluent limit.



## OFFICE OF THE GOVERNOR

## NOTICE OF PROPOSED RULES

1) Heading of the Part: Office of the Governor Procurement Rules2) Code Citation: 44 Ill. Adm. Code 15003) Section Numbers: Proposed Action:

1500.01 New  
 1500.05 New  
 1500.10 New  
 1500.15 New  
 1500.25 New  
 1500.525 New  
 1500.1005 New  
 1500.1510 New  
 1500.1570 New  
 1500.1580 New  
 1500.2005 New  
 1500.2010 New  
 1500.2012 New  
 1500.2015 New  
 1500.2020 New  
 1500.2025 New  
 1500.2030 New  
 1500.2035 New  
 1500.2036 New  
 1500.2037 New  
 1500.2038 New  
 1500.2040 New  
 1500.2043 New  
 1500.2045 New  
 1500.2047 New  
 1500.2050 New  
 1500.2055 New  
 1500.2060 New  
 1500.2560 New  
 1500.2570 New  
 1500.2800 New  
 1500.4505 New  
 1500.4510 New  
 1500.4530 New  
 1500.4535 New  
 1500.4540 New  
 1500.4570 New  
 1500.5013 New  
 1500.5015 New  
 1500.5020 New  
 1500.5030 New  
 1500.5035 New  
 1500.5510 New

## OFFICE OF THE GOVERNOR

## NOTICE OF PROPOSED RULES

1500.5520 New  
 1500.5530 New  
 1500.5540 New  
 1500.5550 New  
 1500.6500 New  
 1500.6510 New  
 1500.6520 New  
 1500.7000 New  
 1500.7010 New  
 1500.7020 New  
 1500.7025 New  
 1500.7030 New

4) Statutory Authority: 30 ILCS 500 and 30 ILCS 525

5) A Complete Description of the Subjects and Issues Involved: Section 1-30 of the Illinois Procurement Code requires that constitutional officers procure their needs in a manner substantially in accordance with the requirements of the Code, and that such officers promulgate rules no less restrictive than the requirements of the Code to govern procurements.

This rulemaking prescribes standard procurement rules for the Office of the Governor in accordance with the requirements of the Illinois Procurement Code.

6) Will this rulemaking replace any emergency rulemaking currently in effect?  
Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: Proposed rules contain a Section for joint purchase of supplies and services that would affect local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. Written comments may be submitted within 45 days after the publication of this notice to:

David Wood  
 Bureau of the Budget  
 108 State House  
 Springfield, IL 62706

OFFICE OF THE LT. GOVERNOR  
NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Office of the Lt. Governor's Procurement Rules  
2) Code Citation: 44 Ill. Adm. Code 1600

3) Section Numbers: Proposed Action:

1600.01	New
1600.05	New
1600.10	New
1600.15	New
1600.25	New
1600.525	New
1600.1005	New
1600.1510	New
1600.1570	New
1600.1580	New
1600.2005	New
1600.2010	New
1600.2012	New
1600.2015	New
1600.2020	New
1600.2025	New
1600.2030	New
1600.2035	New
1600.2036	New
1600.2037	New
1600.2038	New
1600.2040	New
1600.2043	New
1600.2045	New
1600.2047	New
1600.2050	New
1600.2055	New
1600.2060	New
1600.2560	New
1600.2570	New
1600.2800	New
1600.4505	New
1600.4510	New
1600.4530	New
1600.4535	New
1600.4540	New
1600.4570	New
1600.5013	New
1600.5015	New
1600.5020	New
1600.5030	New
1600.5035	New
1600.5510	New

OFFICE OF THE GOVERNOR  
NOTICE OF PROPOSED RULES

217/782-4520

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Small businesses and not-for-profit corporations that will be affected are those that seek to provide goods and services, including equipment, supplies and professional and artistic services, to the Office of the Governor.

B) Reporting, bookkeeping or other procedures required for compliance: Each contractor and subcontractor is required to maintain books and records relating to performance of the contract or subcontract and necessary to support amounts charged to the State for a period of 3 years from the later of the date of final payment under the contract or subcontract or completion of the contract or

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent Regulatory Agendas because: Public Act 90-572, which authorizes the rulemaking, was signed into law on February 6, 1998.

The full text of the Proposed Rule is identical to the Emergency Rules published in this Register on page 12823



## OFFICE OF THE LT. GOVERNOR

## NOTICE OF PROPOSED RULES

1600.5520 New  
 1600.5530 New  
 1600.5540 New  
 1600.5550 New  
 1600.5500 New  
 1600.6510 New  
 1600.6520 New  
 1600.7000 New  
 1600.7010 New  
 1600.7015 New  
 1600.7020 New  
 1600.7025 New  
 1600.7030 New

4) Statutory Authority: 30 ILCS 500 and 30 ILCS 525

5) A complete Description of the Subjects and Issues Involved: Section 1-30 of the Illinois Procurement Code requires that constitutional officers procure their needs in a manner substantially in accordance with the requirements of the Code, and that such officers promulgate rules no less restrictive than the requirements of the Code to govern procurements.

The rulemaking prescribes standard procurement rules for the Office of the Lt. Governor in accordance with the requirements of the Illinois Procurement Code.

6) Will this proposed rule replace an emergency rule currently in effect?  
 Yes

7) Does this proposed rulemaking contain an automatic repeal date? No

8) Does this proposed rule contain incorporations by reference? No

9) Are there any other proposed amendments pending in this Part? No

10) Statement of Statewide Policy Objectives (if applicable: Proposed rules contain a Section for joint purchase of supplies and services that would affect local government.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. Written comments may be submitted within 45 days after the publication of this notice to:

David Wood  
 Bureau of the Budget  
 108 State House  
 Springfield, IL 62706

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF PROPOSED RULES

(217)782-4520

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Small businesses and not-for-profit corporations that will be affected are those that seek to provide goods and services, including equipment, supplies and professional and artistic services, to the Office of the Lt. Governor.

B) Reporting, bookkeeping or other procedures required for compliance: Each contractor and subcontractor is required to maintain books and records relating to performance of the contract or subcontract and necessary to support amounts charged to the State for a period of 3 years from the later of the date of final payment under the contract or subcontract or completion of the contract or subcontract.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: Public Act 90-572, which authorizes the rulemaking, was signed into law on February 6, 1998.

The full text of the Proposed Rule is identical to the emergency rules published in this Illinois Register on page 12493:

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Dietetic and Nutrition Services Practice Act
- 2) Code Citation: 68 Ill. Adm. Code 1245
- 3) Section Numbers: Proposed Action:  
1245.300 Amend
- 4) Statutory Authority: Implementing the Dietetic and Nutrition Services Practice Act [225 ILCS 30]
- 5) A Complete Description of the Subjects and Issues Involved: The continuing education (CE) requirement, as provided for in Section 1245.310 of this Part, is for 15 hours for the October 31, 1999 renewal and 30 hours for all subsequent renewals. However, Section 1245.300 did not reflect that only 15 hours was required for the 1999 renewal.
- 6) Will these proposed amendments replace emergency rules currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local governments.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Department of Professional Regulation  
Attention: Jean A. Courtney  
320 West Washington, 3rd Floor  
Springfield, IL 62786  
217/785-0813

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Businesses providing dietetic or nutrition services.
- B) Reporting, bookkeeping or other procedures required for compliance: Licensees will be required to maintain records of their completed CE.

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- C) Types of professional skills necessary for compliance: Dietetic and nutrition skills are required for licensure.
- 13) Regulatory Agenda on which this rulemaking was summarized: July 1998
- The full text of the Proposed Amendments begins on the next page:



DEPARTMENT OF PROFESSIONAL REGULATION  
NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS  
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION  
SUBCHAPTER B: PROFESSIONS AND OCCUPATIONS

PART 1245  
DIETETIC AND NUTRITION SERVICES PRACTICE ACT

SUBPART A: DEFINITIONS

Section  
1245.10

Definitions

SUBPART B: DIETITIAN

Section  
1245.100 Application for Licensure as a Dietitian Under Section 60(a) of the Act (Grandfather)

1245.110 Application for Examination/Licensure

1245.120 Examination

1245.130 Approved Programs in Dietetics

1245.140 Experience

1245.150 Endorsement

1245.160 Restoration

SUBPART C: NUTRITION COUNSELOR

Section  
1245.200

Application for Licensure as a Nutrition Counselor Under Section 60(b) of the Act (Grandfather)

1245.210 Application for Examination/Licensure

1245.220 Examination

1245.230 Approved Programs of Nutrition Counselors

1245.240 Experience

1245.250 Endorsement

1245.260 Restoration

SUBPART D: GENERAL

Section  
1245.300

Renewal

1245.310 Continuing Education

1245.320 Inactive Status

1245.330 Unprofessional Conduct

1245.340 Granting Variances

AUTHORITY: Implementing the Dietetic and Nutrition Services Practice Act [225 ILCS 30] and authorized by Section 60(7) of the Civil Administrative Code of

DEPARTMENT OF PROFESSIONAL REGULATION  
NOTICE OF PROPOSED AMENDMENTS

Illinois [20 ILCS 2105/60(7)].

SOURCE: Adopted at 19 Ill. Reg. 7598, effective May 26, 1995; expedited correction at 19 Ill. Reg. 11678, effective May 26, 1995; amended at 22 Ill. Reg. 8445, effective May 4, 1998; amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART D: GENERAL

Section 1245.300 Renewal

- a) The first renewal period for licenses issued under the Act shall be October 31, 1997. Thereafter, every license issued under the Act shall expire October 31 of odd-numbered years. For the October 31, 1999 renewal, a licensee will be required to complete 15 hours of continuing education. Beginning with the October 31, 2001 renewal and every renewal thereafter, in order to renew a license, a licensee shall be required to complete 30 hours of continuing education in accordance with Section 1245.310 of this Part. The holder of a license may renew such license during the month preceding the expiration date by paying the required fee.
- b) It is the responsibility of each licensee to notify the Department of any change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to pay the renewal fee or to renew one's license.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Diagnosis Related Grouping (DRG) Prospective Payment System (PPS)

2) Code Citation: 89 Ill. Adm. Code 149

3) Section Numbers: Proposed Action:  
149.50 Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 90-588

5) Complete Description of the Subjects and Issues Involved: These proposed amendments to the Department's rules regarding hospital services are intended to add clarifications concerning the defining characteristics of a children's hospital and the services rendered by such hospitals that are reimbursable under the Medical Assistance program. The proposed amendments also specify that any general care hospital seeking separate licensure for a section of the hospital that is devoted exclusively to providing services for children must obtain that licensure as a children's hospital before September 30, 1998. Since services in a children's hospital are generally more costly than similar services in other hospital environments, these new provisions are necessary to allow budgetary stability and predictability considering the constraints and limitations of the Department's appropriations for medical services.

The budgetary implications of these changes are not foreseeable at this time because it is not known how many, if any, general care hospitals will choose to seek licensure as a children's hospital. However, the Department is not anticipating any significant budgetary changes on the basis of these proposed amendments.

6) Will these proposed amendments replace emergency amendments currently in effect? Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

11) Time, Place, and Manner in which Interested Persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

Joanne Jones  
Bureau of Rules and Regulations  
Illinois Department of Public Aid  
201 South Grand Ave. E., 3rd Floor,  
Springfield, Illinois 62763  
217/524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

Any interested persons may review these proposed amendments at the Illinois Department of Human Services' local offices located in each county (except Cook County). In Cook County, the amendments may be reviewed at the Office of the Director, Illinois Department of Public Aid, 310 South Michigan Avenue, Suite 1700, Chicago, Illinois, and the Office of the Secretary, Illinois Department of Human Services, 401 South Clinton, Chicago, Illinois. The amendments may be reviewed at all offices Monday through Friday from 8:30 A.M. until 5:00 P.M. These copies of the amendments are being made available for review in accordance with federal requirements at 42 CFR 447.205.

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Hospitals excluded from reimbursement under the Diagnosis Related Grouping Prospective Payment System will be affected by this rulemaking. The Department is unsure whether or not any of the affected entities may qualify as small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None



DEPARTMENT OF PUBLIC AID  
NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part Hospital Services
- 2) Code Citation 89 Ill. Adm. Code 148
- 3) 

<u>Section Numbers</u>	<u>Proposed Action</u>
148.120	Amendment
148.140	Amendment
148.295	Amendment
148.296	Amendment
148.297	Amendment
148.298	New Section

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 90-588

5) Complete Description of the Subjects and Issues Involved: These proposed amendments to the Department's rules governing reimbursement for hospital services are designed to improve funding for necessary medical care for public assistance recipients. The proposed changes will affect the Critical Hospital Adjustment Payment program (CHAP), the Supplemental Critical Hospital Adjustment Payment program (SCHAP), and pediatric outpatient adjustment payments. The proposed changes also create a new program for pediatric inpatient adjustment payments and provide for outpatient reform. Additionally, proposed changes are being made to Section 148.120 to add clarifications regarding the defining characteristics of a children's hospital; these changes are necessary companion amendments to similar changes at 89 Ill. Adm. Code 149.50.

For CHAP (Section 148.295), some reimbursement changes will be provided but any spending increases that result are expected to be offset by a reduction in inpatient services utilization. This decrease in inpatient care is the result of the current trend for shorter inpatient hospitalization stays and increases in the number of outpatient services rendered.

The proposed changes concerning SCHAP (Section 148.296) will modify qualification criteria to accommodate recently established children's hospitals. These changes are necessary to maintain access to inpatient services and are expected to increase the Department's annual spending for these services by approximately \$5 million.

For pediatric outpatient adjustment payments (Section 148.297), the proposed amendments will result in changes in reimbursements in order to better maintain access to outpatient services provided through children's hospitals. These changes are expected to result in an annual budgetary increase of approximately \$12.2 million.

The proposed changes also establish a new program for pediatric inpatient

DEPARTMENT OF PUBLIC AID  
NOTICE OF PROPOSED AMENDMENTS

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: This rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments which appears in this issue of the Register on page 1306.

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

adjustment payments (new Section 148.298) for recently established children's hospitals. These changes are necessary because other quarterly adjustment payments for children's hospitals are limited to such hospitals already in existence. These changes will provide reimbursement parity for the new hospitals and are expected to result in an increase in the Department's annual expenditures of approximately \$1.8 million.

Lastly, the proposed amendments provide measures for outpatient reform in Section 148.140. This plan for outpatient reform is the result of agreements between the Department and an outpatient reform workgroup that included hospital representation. These changes will both increase the number of outpatient billing groups from four to 12, and in the aggregate, increase outpatient spending. These proposed changes are needed to increase the responsiveness of the Department's outpatient reimbursement methodology to the type of procedures being provided, and to cover a higher percentage of a hospital's costs in providing outpatient services. These proposed amendments are expected to result in an annual expenditure of \$70.7 million. Companion amendments on outpatient billing group changes and outpatient reform are also being filed at 89 Ill. Adm. Code 146.125 and 146.130 concerning services provided by ambulatory surgical treatment centers.

- 6) Will these proposed amendments replace emergency amendments currently in effect? Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes
- |                    |                              |  |
|--------------------|------------------------------|--|
| Sections<br>148.82 | Proposed Action<br>Amendment | Illinois Register Citation<br>May 15, 1998 (22 Ill. Reg. 8356) |
|--------------------|------------------------------|--|
- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.
- 11) Time, Place, and Manner in which Interested Persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to

Joanne Jones  
Bureau of Rules and Regulations  
Illinois Department of Public Aid  
201 South Grand Ave. E., 3rd Floor,  
Springfield Illinois 62763  
217/524-0081

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

## 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Providers of hospital outpatient and inpatient services will be affected by this rulemaking. The Department is unsure whether or not any of the affected entities may qualify as small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: This rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments which appears in this issue of the Register on page 13070.



DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

must be in writing and should be addressed to

Joanne Jones  
Bureau of Rules and Regulations  
Illinois Department of Public Aid  
201 South Grand Ave. E., 3rd Floor  
Springfield, Illinois 62763  
217/524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Long term care facilities and developmental training agencies will be affected by this rulemaking. The Department is unsure whether or not any of the affected entities may qualify as small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rules was not included on either of the 2 most recent agendas because: This rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments which appears in this issue of the Register on page 13114.

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Long Term Care Reimbursement Changes

2) Code Citation 89 Ill. Adm. Code 153

3) Section Numbers Proposed Action:  
153.125 Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 90-588

5) Complete Description of the Subjects and Issues Involved These proposed amendments to the Department's rules concerning long term care reimbursement are necessary to provide certain reimbursement increases as required under Public Act 90-588. Long term care facilities, including nursing homes (NF) and intermediate care facilities for persons with developmental disabilities (ICF/MR), will receive a three percent increase in the per diem rate paid for services provided to eligible Medical Assistance recipients. For nursing facilities, an increase of \$1.10 will be added to the nursing component of the facility rate. A three percent rate increase will also be effective for developmental training services for eligible recipients.

The Department anticipates an annual budgetary increase of \$72.7 million for the NF rate changes. The average per diem resulting from these provisions will be \$81.29.

The Department of Human Services expects an annual budgetary increase of \$9.3 million to result from increased ICF/MR reimbursements. The average per diem will be \$109.98.

6) Will these proposed amendments replace emergency amendments currently in effect? Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? Yes

Sections Proposed Action Illinois Register Citation  
153.100 Amendment May 8, 1998 (22 Ill. Reg. 7888)

10) Statement of Statewide Policy Objectives: These proposed amendment do not affect units of local government.

11) Time, Place, and Manner in which Interested Persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Medical Assistance Programs2) Code Citation: 89 Ill. Adm. Code 1203) Section Numbers:

<u>Section Numbers:</u>	<u>Proposed Action:</u>
120.10	Amendment
120.30	Amendment
120.60	Amendment
120.314	Amendment
120.380	Amendment
120.381	Repealed
120.382	Amendment
120.383	Amendment
120.384	Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]; Public Law 104-193; and Section 4913 of the Balanced Budget Act5) Complete Description of the Subjects and Issues Involved: These proposed amendments to the Department's rules regarding medical assistance standards and eligibility provide for changes in the asset policy affecting Medicaid eligibility for TANF MANG cases. These changes will result in the disregard of all assets when making Medicaid eligibility determinations for families with children. Under current rules, assets are disregarded for certain families with children, while for other families, only some specified assets are disregarded.

In 1991, the Department eliminated the asset requirements for MANG(P), covering pregnant women and children, because eligibility is determined according to federal poverty level criteria. However, assets continue to be considered for families with children whose income eligibility is determined using the MANG standard. These proposed amendments eliminating asset requirements in determining Medicaid eligibility for TANF MANG cases will result in a more equitable method of determination and will simplify administration of the Medicaid program.

These changes will not apply to AABD MANG cases; asset considerations will continue to apply to Medicaid funded nursing facility residents.

These proposed changes concerning the elimination of asset requirements are expected to result in an additional annual Department expenditure of \$825,915.

The proposed amendments to Section 120.314 describe additional criteria concerning disability determinations for children under age 18 and are intended to protect Medicaid eligibility for children who do not meet certain new SSI disability standards. Under provisions of the Personal

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193), some children were excluded from SSI eligibility because of changes in the disability determination standards. However, Section 4913 of the Balanced Budget Act of 1997 requires that such children continue to be considered as having a disability for Medicaid eligibility purposes. These proposed amendments are necessary to reflect these changes concerning determinations of disability. The Department does not anticipate any significant budgetary changes to result from these revisions.

6) Will these proposed amendments replace emergency amendments currently in effect? No7) Does this rulemaking contain an automatic repeal date? No8) Do these proposed amendments contain incorporations by reference? No9) Are there any other proposed amendments pending on this Part? Yes

<u>Sections</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
120.10	Amendment	May 29, 1998 (22 Ill. Reg. 9242)
120.347	Amendment	May 29, 1998 (22 Ill. Reg. 9242)

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.11) Time, Place, and Manner in which Interested Persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Jones  
Bureau of Rules and Regulations  
Illinois Department of Public Aid  
201 South Grand Ave. E., 3rd Floor  
Springfield, Illinois 62763.  
217/524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 120  
MEDICAL ASSISTANCE PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section  
120.1

Incorporation By Reference

SUBPART B: ASSISTANCE STANDARDS

Section  
120.10  
120.11  
120.12

Eligibility For Medical Assistance  
MANG(P) Eligibility  
Healthy Start - Medicaid Presumptive Eligibility Program For Pregnant Women

120.20  
120.30  
120.31  
120.40  
120.50

MANG(AABD) Income Standard  
MANG(C) Income Standard  
MANG(P) Income Standard  
Exceptions To Use Of MANG Income Standard  
AMI Income Standard (Repealed)

SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

Section  
120.60

Cases Other Than Long Term Care, Pregnant Women and Certain Children  
All--Cases--Other--Than--Intermediate-Care-Skilled-Nursing-Care--BHS  
Facilities--BHS-Approved-Community-Based-Settings-and-Pregnant--Women  
and--Children--Under--Age--19--Who--Do--Not--Qualify--As--Mandatory  
Categorically-Needy

120.61  
120.62

Cases in Intermediate Care, Skilled Nursing Care and DMHDD -  
MANG(AABD) and All Other Licensed Medical Facilities  
Department of Mental Health and Developmental Disabilities (DMHDD)  
Approved Home and Community Based Residential Settings Under 89 Ill.  
Adm. Code 140.643

120.63  
120.64  
120.65

Department of Mental Health and Developmental Disabilities (DMHDD)  
Approved Home and Community Based Residential Settings  
MANG(P) Cases  
Department of Mental Health and Developmental Disabilities (DMHDD)  
Licensed Community - Integrated Living Arrangements

SUBPART D: SUPPLEMENTARY MEDICAL INSURANCE

Section  
120.70

Supplementary Medical Insurance Benefits (SMIB) Buy-In Program



## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

- 120.72 Eligibility for Medicare Cost Sharing as a Qualified Medicare Beneficiary (QMB)
- 120.73 Eligibility for Medical Payment of Medicare Part B Premiums as a Specified Low-Income Medicare Beneficiary (SLIB)
- 120.74 Qualified Medicare Beneficiary (QMB) Income Standard
- 120.75 Specified Low-Income Medicare Beneficiary (SLIB) Income Standards
- 120.76 Hospital Insurance Benefits (HIB)

## SUBPART E: RECIPIENT RESTRICTION PROGRAM

## Section

- 120.80 Recipient Restriction Program

## SUBPART F: MIGRANT MEDICAL PROGRAM

## Section

- 120.90 Migrant Medical Program
- 120.91 Income Standards

## SUBPART G: AID TO THE MEDICALLY INDIGENT

## Section

- 120.200 Elimination of Aid to The Medically Indigent
- 120.208 Client Cooperation (Repealed)
- 120.210 Citizenship (Repealed)
- 120.211 Residence (Repealed)
- 120.212 Age (Repealed)
- 120.215 Relationship (Repealed)
- 120.216 Living Arrangement (Repealed)
- 120.217 Supplemental Payments (Repealed)
- 120.218 Institutional Status (Repealed)
- 120.224 Foster Care Program (Repealed)
- 120.225 Social Security Numbers (Repealed)
- 120.230 Unearned Income (Repealed)
- 120.235 Exempt Unearned Income (Repealed)
- 120.236 Education Benefits (Repealed)
- 120.240 Unearned Income In-Kind (Repealed)
- 120.245 Earmarked Income (Repealed)
- 120.250 Lump Sum Payments and Income Tax Refunds (Repealed)
- 120.255 Protected Income (Repealed)
- 120.260 Earned Income (Repealed)
- 120.261 Budgeting Earned Income (Repealed)
- 120.262 Exempt Earned Income (Repealed)
- 120.270 Recognized Employment Expenses (Repealed)
- 120.271 Income From Work/Study/Training Program (Repealed)
- 120.272 Earned Income From Self-Employment (Repealed)
- 120.273 Earned Income From Roomer and Boarder (Repealed)
- 120.275 Earned Income In-Kind (Repealed)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

- 120.276 Payments from the Illinois Department of Children and Family Services (Repealed)
- 120.280 Assets (Repealed)
- 120.281 Exempt Assets (Repealed)
- 120.282 Asset Disregards (Repealed)
- 120.283 Deferral of Consideration of Assets (Repealed)
- 120.284 Spend-down of Assets (AMI) (Repealed)
- 120.285 Property Transfers (Repealed)
- 120.290 Persons Who May Be Included in the Assistance Unit (Repealed)
- 120.295 Payment Levels for AMI (Repealed)

## SUBPART H: MEDICAL ASSISTANCE - NO GRANT

## Section

- 120.308 Client Cooperation
- 120.309 Caretaker Relative
- 120.310 Citizenship
- 120.311 Residence
- 120.312 Age
- 120.313 Blind
- 120.314 Disabled
- 120.315 Relationship
- 120.316 Living Arrangements
- 120.317 Supplemental Payments
- 120.318 Institutional Status
- 120.319 Assignment of Rights to Medical Support and Collection of Payment
- 120.320 Cooperation in Establishing Paternity and Obtaining Medical Support
- 120.321 Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
- 120.322 Proof of Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
- 120.323 Suspension of Paternity Establishment and Obtaining Medical Support Upon Finding Good Cause
- 120.324 Health Insurance Premium Payment (HIPP) Program
- 120.325 Health Insurance Premium Payment (HIPP) Pilot Program
- 120.326 Foster Care Program
- 120.327 Social Security Numbers
- 120.330 Unearned Income
- 120.332 Budgeting Unearned Income
- 120.335 Exempt Unearned Income
- 120.336 Education Benefits
- 120.338 Incentive Allowance
- 120.340 Unearned Income In-Kind
- 120.342 Court Ordered Child Support Payments of Parent/Step-Parent
- 120.345 Earmarked Income
- 120.346 Medicaid Qualifying Trusts
- 120.347 Treatment of Trusts
- 120.350 Lump Sum Payments and Income Tax Refunds

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

120.355 Protected Income  
 120.360 Earned Income  
 120.361 Budgeting Earned Income  
 120.362 Exempt Earned Income  
 120.363 Earned Income Disregard - MANG(C)  
 120.364 Earned Income Exemption  
 120.366 Exclusion From Earned Income Exemption  
 120.370 Recognized Employment Expenses  
 120.371 Income From Work/Study/Training Programs  
 120.372 Earned Income From Self-Employment  
 120.373 Earned Income From Roomer and Boarder  
 120.375 Earned Income In Kind  
 120.376 Payments from the Illinois Department of Children and Family Services  
 120.379 Provisions for the Prevention of Spousal Impoverishment  
 120.380 Assets  
 120.381 Exempt Assets (Repealed)  
 120.382 Asset Disregard  
 120.383 Deferral of Consideration of Assets  
 120.384 Spend-down of Assets (RABD MANG)  
 120.385 Property Transfers for Applications Filed Prior to October 1, 1989 (Repealed)  
 120.386 Property Transfers Occurring On or Before August 10, 1993  
 120.387 Property Transfers Occurring On or After August 11, 1993  
 120.390 Persons Who May Be Included in the Assistance Unit  
 120.391 Individuals Under Age 18 Who Do Not Qualify For AFDC/AFDC-MANG and Children Born October 1, 1983, or Later (MANG(P) Program)  
 120.392 Pregnant Women Who Would Not Be Eligible For AFDC/AFDC-MANG If The Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy  
 120.393 Pregnant Women and Children Under Age Eight Years Who Do Not Qualify As Mandatory Categorically Needy Demonstration Project  
 120.395 Payment Levels for MANG (Repealed)  
 120.399 Redetermination of Eligibility

TABLE A Value of a Life Estate and Remainder Interest

TABLE B Life Expectancy

AUTHORITY: Implementing Articles III, IV, V and VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 284, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 6082; amended at 7 Ill. Reg. 8256, effective July 1, 1983; amended at 7 Ill. Reg. 8264, effective July 5, 1983; amended (by adding Section being codified with no substantive change) at 7 Ill. Reg. 14747; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16108; amended at 8 Ill. Reg. 5253, effective April 9,



## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

1984; amended at 8 Ill. Reg. 6770, effective April 27, 1984; amended at 8 Ill. Reg. 13328, effective July 16, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17897; amended at 8 Ill. Reg. 18903, effective September 26, 1984; peremptory amendment at 8 Ill. Reg. 20706, effective October 3, 1984; amended at 8 Ill. Reg. 25053, effective December 12, 1984; emergency amendment at 9 Ill. Reg. 830, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 4515, effective March 25, 1985; amended at 9 Ill. Reg. 5346, effective April 11, 1985; amended at 9 Ill. Reg. 7153, effective May 6, 1985; amended at 9 Ill. Reg. 11346, effective July 8, 1985; amended at 9 Ill. Reg. 12298, effective July 25, 1985; amended at 9 Ill. Reg. 12823, effective August 9, 1985; amended at 9 Ill. Reg. 15903, effective October 4, 1985; amended at 9 Ill. Reg. 16300, effective October 10, 1985; amended at 9 Ill. Reg. 16906, effective October 18, 1985; amended at 10 Ill. Reg. 1192, effective January 10, 1986; amended at 10 Ill. Reg. 3033, effective January 23, 1986; amended at 10 Ill. Reg. 4907, effective March 7, 1986; amended at 10 Ill. Reg. 6966, effective April 16, 1986; amended at 10 Ill. Reg. 10688, effective June 3, 1986; amended at 10 Ill. Reg. 12672, effective July 14, 1986; amended at 10 Ill. Reg. 15649, effective September 19, 1986; amended at 11 Ill. Reg. 3992, effective February 23, 1987; amended at 11 Ill. Reg. 7652, effective April 15, 1987; amended at 11 Ill. Reg. 8735, effective April 20, 1987; emergency amendment at 11 Ill. Reg. 12458, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14034, effective August 14, 1987; amended at 11 Ill. Reg. 14763, effective August 26, 1987; amended at 11 Ill. Reg. 20142, effective January 1, 1988; amended at 11 Ill. Reg. 20898, effective December 14, 1987; amended at 12 Ill. Reg. 904, effective January 1, 1988; amended at 12 Ill. Reg. 3516, effective January 22, 1988; amended at 12 Ill. Reg. 6234, effective March 22, 1988; amended at 12 Ill. Reg. 8672, effective May 13, 1988; amended at 12 Ill. Reg. 9132, effective May 20, 1988; amended at 12 Ill. Reg. 11483, effective June 30, 1988; emergency amendment at 12 Ill. Reg. 11632, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 11839, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12835, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 13243, effective July 29, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17867, effective October 30, 1988; amended at 12 Ill. Reg. 19704, effective November 15, 1988; amended at 12 Ill. Reg. 20188, effective November 23, 1988; amended at 13 Ill. Reg. 116, effective January 1, 1989; amended at 13 Ill. Reg. 2081, effective February 3, 1989; amended at 13 Ill. Reg. 3908, effective March 10, 1989; emergency amendment at 13 Ill. Reg. 11929, effective June 27, 1989, for a maximum of 150 days; emergency expired November 25, 1989; emergency amendment at 13 Ill. Reg. 12137, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 15404, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16586, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 17483, effective October 31, 1989; amended at 13 Ill. Reg. 17838, effective November 8, 1989; amended at 13 Ill. Reg. 18872, effective November 17, 1989; amended at 14 Ill. Reg. 760, effective January 1, 1990; emergency amendment at 14 Ill. Reg. 1494, effective January 2, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 4233, effective March 5, 1990;

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

emergency amendment at 14 Ill. Reg. 5839, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 6372, effective April 16, 1990; amended at 14 Ill. Reg. 7637, effective May 10, 1990; amended at 14 Ill. Reg. 10396, effective June 20, 1990; amended at 14 Ill. Reg. 13227, effective August 6, 1990; amended at 14 Ill. Reg. 14814, effective September 3, 1990; amended at 14 Ill. Reg. 17004, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 348, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5302, effective April 1, 1991; amended at 15 Ill. Reg. 10101, effective June 24, 1991; amended at 15 Ill. Reg. 11973, effective August 12, 1991; amended at 15 Ill. Reg. 12747, effective August 16, 1991; amended at 15 Ill. Reg. 14105, effective September 11, 1991; amended at 15 Ill. Reg. 14240, effective September 23, 1991; amended at 16 Ill. Reg. 139, effective December 24, 1991; amended at 16 Ill. Reg. 1862, effective January 20, 1992; amended at 16 Ill. Reg. 10034, effective June 15, 1992; amended at 16 Ill. Reg. 11582, effective July 15, 1992; amended at 16 Ill. Reg. 17290, effective November 3, 1992; amended at 17 Ill. Reg. 1102, effective January 15, 1993; amended at 17 Ill. Reg. 6827, effective April 21, 1993; amended at 17 Ill. Reg. 10403, effective June 28, 1993; amended at 18 Ill. Reg. 2051, effective January 21, 1994; amended at 18 Ill. Reg. 5934, effective April 1, 1994; amended at 18 Ill. Reg. 8718, effective June 1, 1994; amended at 18 Ill. Reg. 11231, effective July 1, 1994; amended at 19 Ill. Reg. 2905, effective February 27, 1995; emergency amendment at 19 Ill. Reg. 9280, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 11931, effective August 11, 1995; amended at 19 Ill. Reg. 15079, effective October 17, 1995; amended at 20 Ill. Reg. 5068, effective March 20, 1996; amended at 20 Ill. Reg. 15993, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 692, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7423, effective May 31, 1997; amended at 21 Ill. Reg. 7748, effective June 9, 1997; amended at 21 Ill. Reg. 11555, effective August 1, 1997; amended at 21 Ill. Reg. 13638, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 1576, effective January 5, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 7003, effective April 1, 1998; amended at 22 Ill. Reg. 8503, effective May 1, 1998; amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_

## SUBPART B: ASSISTANCE STANDARDS

## Section 120.10 Eligibility For Medical Assistance

- a) Eligibility for Medical Assistance exists when a client meets the non-financial requirements of the program and the client's countable nonexempt income (Sections 120.330 and 120.360 ~~120-325-and-120-342~~) is equal to or less than the applicable Medical Assistance - No Grant (MANG) standard or ~~the~~ ~~Medically Indigent (AMI)-Standard-~~ ~~(Sections-120-20-and-120-50)~~ and for AABD MANG, countable nonexempt non-exempt assets are not in excess of the applicable asset disregards (Section 120.380 ~~Sections-120-282-and-120-382~~).
- b) For AABD MANG, the client's countable income and assets include the client's nonexempt income and assets and the nonexempt income and



DEPARTMENT OF PUBLIC AID  
NOTICE OF PROPOSED AMENDMENTS

assets of all persons included in the Medical Assistance standard. The client's responsible relative(s) living with the child must be included in the standard. The client has the option to request that a dependent child under age 18 in the home who is not included in the MANG unit be included in the MANG standard.

c) For TANF (Temporary Assistance for Needy Families) MANG, the client's countable income includes the client's nonexempt income and the nonexempt income of all persons included in the Medical Assistance standard. The client's responsible relative(s) living with the child must be included in the standard. The client has the option to request that a dependent child under age 18 in the home who is not included in the MANG unit be included in the MANG standard.

d) For AABD MANG, if the client's countable nonexempt income is greater than the applicable MANG standard or AAFI standard and/or countable nonexempt assets are over the applicable asset disregard, the client must meet the spend-down obligation determined for the applicable time period before becoming eligible to receive Medical Assistance.

e) For TANF MANG, if the client's countable nonexempt income is greater than the applicable MANG standard, the client must meet the spend-down obligation determined for the applicable time period before becoming eligible to receive Medical Assistance.

f) A one month eligibility period is used for clients receiving care in an intermediate care facility intermediate (ICF) or skilled nursing facility Skilled-Nursing-Care-Facility (SNF) or in a Department of Human Services facility Mental-Health-and-Developmental-Disabilities (MHDBD)-Facility. Nonexempt income and nonexempt non-exempt assets over the asset disregard are applied toward the cost of care on a monthly basis.

g) Newborns

1) When the Department becomes aware of the birth of a child to a recipient of a TANF or AABD grant or related medical assistance or medical assistance due to the mother's pregnancy, the child shall be deemed to have applied for medical assistance only, without written request, subject to the following conditions:

A) The mother must have been receiving TANF or AABD related medical assistance, or medical assistance due to her pregnancy on the date of birth of the child;

B) The mother must have been continuously eligible for such medical assistance.

2) The newborn shall be eligible to receive medical assistance only from the date of birth for up to one year or until the mother becomes ineligible for medical assistance, whichever comes first. The newborn can be added to the grant or medical assistance case, if otherwise eligible, through regular procedures by written request at any time.

DEPARTMENT OF PUBLIC AID  
NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 120.30 MANG(C) Income Standard

Number	Monthly Net Income
In Family	
1	283
2	375
3	508
4	558
5	650
6	733
7	767
8	808
9	850
10	900
11	942
12	992
13	1042
14	1100
15	1158
16	1217
17	1283
18	1350

a) If the number in the household unit exceeds the number provided above, add \$67.00 for each additional person.

b) MANG(C) is available for a pregnant woman, of any age, who would be eligible for TANF or MANG(C) if the child had already been born. If the woman is married and her spouse lives with her, her pregnancy does not make her spouse eligible for MANG(C). The pregnant woman and her spouse's income are combined and compared to the MANG standard for three persons even though only the pregnant woman is eligible to receive MANG(C) before the child's birth.

c) If the case includes adults only, the MANG standard for one adult is \$283.00. The standard for two adults is \$375.00. An unborn child is not counted as a family member.

d) When a child has earmarked income, other than State Supplemental Income (SSI), and the parent does not want this income applied to total family needs, the child is not to be included in the assistance unit. The family size used in the application of the MANG(C) income Standards shall be reduced by one for each such child determined ineligible on this basis.

e) When financial eligibility for MANG(C) is being determined for one child only, the income of the child in excess of \$283.00 a month is considered available to pay toward the child's medical expenses. The child shall be allowed an asset disregard in the amount for one client

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

as stated in Section 120-302-

- f) If eligibility is being determined for more than one child, the MANG(C) Standard for number of people shall be used. Two children shall be allowed an asset disregard in the amount for a client and one dependent as stated in Section 120-302. Add \$50 for each additional child residing in the same household.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

Section 120.60 Cases Other Than Long Term Care, Pregnant Women and Certain Children All Cases Other Than Intermediate-Care-Skilled-Nursing-Care, DHS Facilities, DHS-Approved-Community-Based-Settings-and-Pregnant-Women-and Children-Under-Age-19-Who-Do-Not-Qualify-As-Mandatory-Categorically-Needy

The following subsections apply to all cases other than those receiving care in licensed intermediate care facilities licensed intermediate-care facilities, licensed skilled nursing facilities licensed skilled nursing-care facilities, Department of Human Services (DHS) facilities facilities, or DHS approved community based residential settings under 89 Ill. Adm. Code 140.643, or pregnant women and children under age 19 who do not qualify as mandatory categorically needy.

- a) The eligibility period for MANG is one month. The eligibility period shall begin with:
  - 1) the first day of the month of application;
  - 2) the first day of any month, prior to the month of application, in which the client meets non-financial eligibility requirements up to three months prior to the month of application, if the client so desires; or
  - 3) the first day of a month, after the month of application, in which the client meets non-financial eligibility requirements.
- b) Eligibility Without Spend-down for MANG
  - 1) For AABD MANG, if the client's nonexempt income available during the eligibility period is equal to or below the applicable MANG standard (Sections 120.20 and 120.30) and nonexempt assets are not in excess of the applicable asset disregard (Section 120.382), the client is eligible for medical assistance from the first day of the eligibility period. The Department will pay for covered services received during the entire eligibility period.
  - 2) For TANF MANG, if the client's nonexempt income available during the eligibility period is equal to or below the applicable MANG standard (Sections 120.20 and 120.30), the client is eligible for Medical Assistance from the first day of the eligibility period. The Department will pay for covered services received during the entire eligibility period.
- 3) The client is responsible for reporting any changes that occur

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

during the eligibility period which might affect eligibility for medical assistance. If changes occur, appropriate action shall be taken by the Department, including termination of eligibility for medical assistance. If changes in income, assets or family composition occur which would make the client a spend-down case, a spend-down obligation will be determined and the subsections in (c) of this Section will apply.

- 4) A redetermination of eligibility will be made every 12 months.
  - a) Eligibility with Spend-down for MANG
    - 1) For AABD MANG, if the client's nonexempt income available during the applicable eligibility period is greater than the applicable MANG standard and/or nonexempt assets are over the applicable asset disregard, the client must meet the spend-down obligation determined for the eligibility period before becoming eligible to receive medical assistance. The spend-down obligation is the sum of the amount by which the client's nonexempt income exceeds the MANG standard and the amount of nonexempt assets in excess of the applicable asset disregard.
    - 2) For TANF MANG, if the client's nonexempt income available during the applicable eligibility period is greater than the applicable MANG standard, the client must meet the spend-down obligation determined for the eligibility period before becoming eligible to receive Medical Assistance. The spend-down obligation is the amount by which the client's nonexempt income exceeds the MANG standard.
  - b) The client meets the spend-down obligation by incurring or paying for medical expenses in an amount equal to the spend-down obligation.
    - A) Medical expenses shall be applied to the spend-down obligation in the following order:
      - i) Charges for DHS Home Services and/or Community Based Services. These charges are considered incurred the first day of the month, regardless of the day the services are actually provided.
      - ii) Payments made for medical expenses within the previous six months. Payments are considered incurred the first day of the month of payment.
      - iii) Unpaid medical expenses. These are considered as of the date of service and are applied in chronological order.
    - B) If multiple medical expenses are incurred on the same day, the expenses shall be applied in the following order:
      - i) Health insurance deductibles (including Medicare and other co-insurance charges).
      - ii) All copayment charges incurred or paid on spend-down met day.
      - iii) Expenses for medical services and/or items not covered by the Department's Medical Assistance Program.

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

- iv) Cost share amounts incurred for in-home care services by individuals receiving services through the Department on Aging (DOA).
- v) Expenses incurred for in-home care services by individuals receiving or purchasing services from private providers.
- vi) Expenses incurred for medical services or items covered by the Department's Medical Assistance Program. If more than one covered service is received on the day, the charges will be considered in order of amount. The bill for the smallest amount will be considered first.

- C) If a service is provided during the eligibility period but payment may be made by a third party, such as an insurance company, the medical expense will not be considered towards spend-down until the bill is adjudicated. When adjudicated, that part determined to be the responsibility of the client shall be considered as incurred on the date of service.

4)37 After application for medical assistance for cases eligible with a spend-down obligation who do not have a QMB or MANG(P) member, an additional eligibility determination will be made.

- A) For TANF MANG, if if countable income is greater than the QMB income standard (Section 120.74) and for AABD MANG, if countable income is greater than the income standard or countable assets are greater than the QMB asset disregard (Section 120.382(d)), the case will not be enrolled in spend-down unless:
  - i) the case does not have a spend-down obligation for any month of the twelve-month enrollment period;
  - ii) medical expenses equal the spend-down obligation for at least one month of the twelve-month enrollment period; or
  - iii) the person is on a waiting list or would be on a waiting list to receive a transplant if he or she had a source of payment.

- B) Cases which meet any of these conditions will be notified, in writing, of the spend-down obligation. The client will also be notified that his or her case will be reviewed beginning in the sixth month of the twelve-month enrollment period. If the client has not had medical eligibility in one of the last three months at the time of review (including the month of review), the case will terminate unless the case contains a person who is on a waiting list or who would be on a waiting list to receive a transplant if he or she had a source of payment. A new application will be required if the client wishes continued medical assistance.

- C) When proof of incurred medical expenses equal to the

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

spend-down obligation is provided to the local office, eligibility for medical assistance shall begin effective the first day that the spend-down obligation is met. The Department will pay for covered services received from that date until the end of the eligibility period. The client shall be responsible, directly to the provider, for payment for services provided prior to the time the client meets the spend-down obligation.

- 5)47 Cases with a spend-down obligation which do not have a QMB, a MANG(P) member or a person on a waiting list or who would be on a waiting list to receive a transplant if he or she had a source of payment, will be reviewed beginning in the sixth month of enrollment to determine if they have had medical eligibility within the last three months, including the month of review. If so, enrollment will continue. If not, enrollment will be terminated and the client will be advised that if he or she wishes continued medical assistance, a reapplication must be filed. Upon reapplication, a new twelve-month enrollment period will be established (assuming non-financial factors of eligibility are met). If appropriate, a new spend-down obligation will be created.

- A) If the client files a reapplication prior to four months after the end of the period of enrollment, the client will be sent through a special abbreviated intake procedure making use of current case record material to verify factors of eligibility not subject to change.

- B) Cases that remain eligible in the tenth month of the enrollment period or which have a QMB, a MANG(P) member or a person on a waiting list or who would be on a waiting list to receive a transplant if he or she had a source of payment, will remain enrolled and will be redetermined once every 12 months.

- 6)57 The client is responsible for reporting any changes that occur during the enrollment period which might affect eligibility for medical assistance. If changes occur, appropriate action shall be taken by the Department including termination of eligibility for medical assistance.

- 7)67 For AABD MANG, if if changes in income, assets or family composition occur, appropriate adjustments to the spend-down obligation and date of eligibility for medical assistance shall be made by the Department. The client will be notified, in writing, of the new spend-down obligation.

- A) If income decreases or assets fall below the applicable asset disregard and, as a result, the client has already met the new spend-down obligation, eligibility for medical assistance shall be back-dated to the appropriate date.

- B) If income or assets increase and, as a result, the client has not produced proof of incurred medical expenses equal to



## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

the new spend-down obligation, the written notification of the new spend-down amount will also inform the client that eligibility for medical assistance will be interrupted until proof of medical expenses equal to the new spend-down obligation is produced.

- 8) For TANF MANG, if changes in income or family composition occur, appropriate adjustments to the spend-down obligation and date of eligibility for Medical Assistance shall be made by the Department. The client will be notified in writing, of the new spend-down obligation.

A) If income decreases, and, as a result, the client has already met the new spend-down obligation, eligibility for Medical Assistance shall be back-dated to the appropriate date.

B) If income increases and, as a result, the client has not produced proof of incurred medical expenses equal to the new spend-down obligation, the written notification of the new spend-down amount will also inform the client that eligibility for Medical Assistance will be interrupted until proof of medical expenses equal to the new spend-down obligation is produced.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART H: MEDICAL ASSISTANCE - NO GRANT

## Section 120.314 Disabled

## MANG(D)

- a) To be eligible for medical assistance as a disabled person an individual must be determined disabled as currently defined by the Social Security Administration. (See 20 CFR 416, Subpart I, April 1, 1984).
- b) If an individual is receiving Supplemental Security Income (SSI) or primary Social Security (OASDI) benefits, the Department shall accept the Social Security Administration determination of disability. The Department will make the determination when the client has been denied SSI on the basis of too much income or when the client is applying for medical assistance only and not receiving SSI or OASDI. The Department uses the same criteria for disability as is used under SSI. (See 20 CFR 416, Subpart I, April 1, 1984).
- c) If a child was terminated from SSI due to the August 22, 1996, change in disability standards (Public Law 104-193), and the child was eligible for both Medicaid and SSI on August 22, 1996, the child is considered disabled unless:

- 1) the child becomes 18, or
- 2) the child has not received Medicaid for 12 months, or

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

- 3) the child no longer meets the pre-August 22, 1996, definition of disability.

## d)et Appeals

1) If an individual applying for or receiving medical assistance is determined currently "not disabled" by SSA under the SSI or primary OASDI programs, the Department shall accept SSA's determination of disability and deny or cancel the case, no matter which agency made the original determination of eligibility.

2) If the individual appeals the SSA determination of disability to SSA, medical assistance shall be continued for recipients through the level of a determination by an Administrative Law Judge (ALJ) subject to the time limits of subsection (d)(3) of this Section etj)-below. If medical assistance has been canceled cancelled, but the client later appeals to SSA, the case shall be reinstated through the ALJ level subject to the time limits of subsection (d)(3) of this Section etj)-below.

3) If the client notifies the Department of his or her appeal to SSA within ten 10 days after of the date of the Department notice, medical assistance will be continued with no break. If the client notifies the Department of his or her appeal to SSA within 11 through 65 days after of the date of the Department notice, medical assistance will be reinstated back to the original date of cancellation. If the client notifies the Department of his or her appeal to SSA more than 65 days after the date of the Department notice, medical assistance will be provided prospectively only, unless the client actually appealed to SSA within 65 days after of the date of the Department notice, in which case medical assistance will be reinstated back to the original date of cancellation.

4) Medical assistance shall not be provided to applicants for medical assistance through the SSA appeals process.

5) If an Administrative Law Judge finds the individual "not disabled", the Department shall accept that finding as final. The individual shall not have the right to appeal the determination of disability to the Department at any time during this process.

e)d) Redetermination of disability is a condition of continuing eligibility for individuals who are not applying for or receiving SSI or OASDI benefits.

f)et When appropriate, the Department shall pay for a medical examination to determine disability.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

- a) The value of nonexempt assets shall be considered in determining eligibility for AABD MANG. Assets do not affect eligibility for TAMP MANG.
- b) MANG(c)-----Treatment-of--jointly-held-assets-for-TAMP-MANG-shall-be treated-in-the-same-manner-as-described-in-89-111-Adm-Code-113.150-  
b)et AABD-MANG-----Treatment of jointly held assets for AABD MANG shall be treated in the same manner as described in 89 Ill. Adm. Code 113.140.  
d) MANG(p)---All-assets-are-exempt-from-consideration-in-determining MANG(p)---eligibility. Treatment-of--nonexempt--jointly--held--assets (excess-equity-value-of-motor-vehicle--liquid-assets-such-as--cash-on-hand--or--in-banks--and--savings-institutions--stocks--bonds--savings certificates-and-other-securities) shall-be-treated-in-the-same-manner as-described-in-89-111-Adm-Code-113.150-  
c)et Treatment of potential payments from a Medicaid qualifying trust for AABD MANG and MANG(C) shall be treated in the same manner as described in Section 120.346.  
d)et Trusts established on or after August 11, 1993, shall be treated in the manner established in Section 120.347.  
e)g) The value of a life estate shall be determined at the time the life estate in the property is established and at the time the property (for example, assets) is liquidated. In determining the value of a life estate and remainder interest based on the value of the property at the time the life estate is established or on the amount received when the property is liquidated, the Department shall apply the values described in Section 120.Table A. The life estate and remainder interest are based on the age of the person at the time the life estate in the property is established and at the time the property is liquidated and the corresponding values described in Section 120.Table A.  
f) Exempt assets - Assets exempt from consideration for AABD MANG shall be the same as those described in 89 Ill. Adm. Code 113.141.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 120.381 Exempt Assets (Repealed)

- a) The following assets are-exempt-from-consideration-in-determining eligibility-for-MANG(c):  
1) A-home-which-is-the-usual-residence-of-the-assistance-unit-  
2) Clothing-personal-effects-and-household-furnishings-  
3) One-automobile-if-the-equity-value-does-not-exceed-\$1500-  
4) The-value-of--the-coupon-allotment-under-the-Food-Stamp-Act-of 1977-(7-17-65-Cr-2017-et-seq)-  
5) The-value-of-the-U.S.-Department--of--Agriculture--donated--foods (surplus-commodities)-  
6) The-value-of--supplemental--food--assistance-received-under-the

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

- Child-Nutrition-Act-of-1966-(42-U.S.C.-1771-et-seq)-as--amended-7 and-the-special-food-service-program-for-child-under-the-National School-Lunch-Act-as-amended-  
7) Donations--or-benefits--from-fund-raisers-held-for-a-seriously-ill client-providing-the-client-or-responsible-relative-of-the-client does-not-have-control-(for-example-eg-7--not--available--to--the client--or--the-responsible--relative)--over--the--donations--or-benefits--or--the-disbursement-of-the-donations--or-benefits-  
b) AABD-MANG-Assets-exempt-from-consideration-for-AABD-MANG-shall-be-the same-as-those-listed-in-89-111-Adm-Code-113.141-  
c) The-following-assets-are-exempt--from-consideration--in-determining eligibility-for-MANG(p)  
1) one-motor-vehicle--if--the-equity-value-does-not-exceed-\$67000-  
2) The-excess-equity-value-is-applied-toward-the-asset-disregard-  
2) All-other-assets-except-for-liquid-assets-such-as-cash-on-hand-or in-banks--and--savings--institutions--stocks--bonds--savings certificates-and-other-securities-

(Source: Repealed at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 120.382 Asset Disregard

In addition to the exempt assets listed in Section 120.381, the cash value of assets shall be disregarded for AABD MANG as follows:

- a) MANG-(AABD)  
a)1) \$2000.00 for a client and \$3000.00 for a client and one dependent residing together.  
b)2) \$50.00 for each additional dependent residing in the same household.  
c)3) The amount equal to the sum of qualifying insurance benefit payments made as a result of coverage under a Long Term Care Partnership Insurance Policy, as described in 50 Ill. Adm. Code 2018, provided that the person has received all of the qualifying insurance benefit payments that are payable under the policy.  
d)4) All assets of a person who purchases a Long Term Care Partnership Insurance Policy, as described in 50 Ill. Adm. Code 2018, with coverage equal to the average cost of four years of long term care services in a nursing facility, provided that the person has received all of the qualifying insurance benefit payments that are payable under the policy.  
e)5) Eligibility for AABD MANG does not exist when nonexempt assets exceed the above disregard.  
b) MANG(c)  
1) \$2000.00--for-a-one-person--assistance--unit-and-\$3000.00-for-a two-person-assistance-unit-  
2) \$50.00-for-each-additional-member-of-the-assistance-unit-  
f)et Qualified Medicare Beneficiary (QMB)



## DEPARTMENT OF PUBLIC AID

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

## NOTICE OF PROPOSED AMENDMENTS

- 1) \$4,000 for a single person and \$6,000 for a person with one or more dependents.
- 2) Eligibility for QMB status does not exist when countable assets exceed the above disregard.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 120.383 Deferral of Consideration of Assets

## a) MANG(AABD)

1) Consideration of excess assets may be deferred for a period not to exceed two months for applicants who are leaving a State School or State mental hospital to enter group care facilities and for whom the exact trust fund amount cannot be determined but appears not to exceed one month's needs.

2) A final decision concerning use or disposal of nonexempt assets may be deferred for 90 days, from the date assistance is initially authorized, when it can be assumed at the time of application that the period of eligibility will not extend beyond 90 days.

## b) MANG(e)

A final decision concerning use or disposal of nonexempt assets may be deferred for 90 days from the date assistance is initially authorized, when it can be assumed at the time of application that the period of eligibility will not extend beyond 90 days.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 120.384 Spend-down of Assets (AABD MANG)

## a) Determination of Assets

1) For individuals residing in the community the Department determines the amount of non-exempt assets using the verified amount on the date of decision on the application for medical assistance. The date of verification may be prior to the date of decision. Money considered as income for a month is not considered as an asset for that same month. If income for a month is added to a bank account that month, the Department will subtract the amount of income from the bank balance to determine the asset level. Any income remaining the following month(s) is considered as an asset.

2) The amount of non-exempt assets verified during the application process is used on the date of decision. If medical eligibility includes a backdated month(s), for the backdated month(s), the Department will consider the amount of assets available to apply to the cost of medical care. The Department will not determine

the value of assets for a backdated month(s) of eligibility. However, the amount of the excess assets verified during the application process is used to determine spend-down status in each backdated month of eligibility.

3) Once the excess asset has been used to meet spend-down, whether or not the excess amount has actually been reduced, it is no longer considered. However, at reapplication/redetermination, the Department will consider any excess non-exempt assets remaining as currently available.

## b) Community Cases (AABD MANG)

For AABD MANG, to determine the spend-down obligation for MANG clients in the community, the Department will compare monthly countable income to the appropriate MANG standard and add any non-exempt assets in excess of the appropriate asset disregard to non-exempt monthly income in excess of the appropriate MANG Standard.

## 1) Regular AABD MANG - Community Residents

When an individual residing in the community, has countable monthly income of not more than 99 cents over the appropriate MANG Standard and has non-exempt excess assets of not more than 99 cents over the appropriate asset disregard, the case is referred to as a Regular MANG case. Payment for covered services is made for each month eligibility exists.

## 2) Spend-down AABD MANG

A) When an individual resides in the community and has countable monthly income of at least \$1.00 over the MANG Standard and/or non-exempt assets of at least \$1.00 in excess of the asset disregard for the appropriate size household, the case is referred to as a community spend-down case. The spend-down amount is the sum of the amount of income in excess of the MANG Standard plus non-exempt assets in excess of the appropriate asset disregard. The Department will disregard any excess income and/or asset amounts that are not at least \$1.00 over the appropriate standard or disregard.

B) If the individual presents verification that the excess amount is no longer available, the Department will make the appropriate changes the month following the month the assets were transferred.

C) Individuals enrolled in spend-down are not eligible for payment of covered medical services until spend-down is met. Spend-down is met by presenting allowable medical bills or receipts to the Department that equal the amount of the individual's excess countable income and/or non-exempt excess assets. Excess assets do not have to be reduced prior to the authorization of medical assistance.

## c) Group Care Cases

To determine the spend-down obligation for AABD MANG clients in group care, the Department will compare monthly countable income and



## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

non-exempt assets in excess of the appropriate asset disregard to the cost of long term care at the private pay rate or the Department rate, whichever is greater. When an individual has non-exempt excess assets, the excess amount is applied to the monthly long term care charges after the monthly countable income has been applied.

## 1) Regular Group Care

When an individual in group care has countable monthly income plus non-exempt assets in excess of the applicable asset disregard of not more than 99 cents over the private pay rate or the Department rate, whichever is greater, the case is referred to as a Regular Group Care case. If monthly countable income plus excess non-exempt assets are less than the long term care charges at the Department rate, the Department will pay the difference.

## 2) Group Care Spend-down

A) When an individual in group care has countable monthly income plus non-exempt assets in excess of the applicable asset disregard of at least \$1.00 over the cost of long term care at the private pay rate or the Department rate, whichever is greater, the case is referred to as a Group Care Spend-down case. The spend-down amount is the sum of the monthly countable income plus non-exempt assets over the applicable asset disregard.

B) The transfer of asset policy set forth in Section 120.385 still applies. Once the client has been determined to have a resource spend-down because of excess non-exempt assets, the spend-down cannot be eliminated by a non-allowable transfer made to qualify for or increase the need for medical assistance.

C) If the individual presents verification that the excess amount is no longer available and the transfer of assets is allowable according to Section 120.385, the Department will make the appropriate changes the month following the month the assets were transferred. If spend-down has been met, the policy set forth in Section 120.385 regarding transfer of assets does not apply. The client may dispose of the asset as he/she wishes as it has been applied to a met spend-down.

D) Individuals enrolled in spend-down are not eligible for payment of covered medical services until spend-down is met. Spend-down is met by presenting allowable medical bills or receipts to the Department that equal the amount of the individual's excess countable income and/or non-exempt assets. Excess assets do not have to be reduced prior to the authorization of medical assistance.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Specialized Health Care Delivery Systems
- 2) Code Citation: 89 Ill. Adm. Code 146
- 3) Section Numbers: 146.125  
146.130  
Proposed Action:  
Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 90-588
- 5) Complete Description of the Subjects and Issues Involved: These proposed amendments concerning Ambulatory Surgical Treatment Centers (ASTCs) are a component of the outpatient reform measures mandated by the Legislature and are necessary to revise the rules in accordance with companion changes in the Department's rules governing outpatient services at 89 Ill. Adm. Code 148.140(b)(1). The Hospital Ambulatory Reform (HAR) Program codes, which have served as the basis for ASTC reimbursement, are composed of four billing groups. Effective July 1, 1998, the number of outpatient billing groups will be increased from four to 12. The new billing groups, Ambulatory Procedure Listing (APL) codes, will therefore replace HAR codes for purposes of ASTC reimbursement. However, ASTC reimbursements will continue to be calculated at 75 percent of the applicable billing group.

The use of the APL codes will, in the aggregate, increase outpatient spending. For ASTC services, the Department anticipates an annual budgetary increase of approximately \$200,000.

- 6) Will these proposed amendments replace emergency amendments currently in effect? Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.
- 11) Time, Place, and Manner in which Interested Persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Jones  
Bureau of Rules and Regulations

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

Illinois Department of Public Aid  
201 South Grand Ave. E., 3rd Floor,  
Springfield, Illinois 62763  
217/524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

Any interested persons may review these proposed amendments at the Illinois Department of Human Services' local offices located in each county (except Cook County). In Cook County, the amendments may be reviewed at the Office of the Director, Illinois Department of Public Aid, 310 South Michigan Avenue, Suite 1700, Chicago, Illinois, and the Office of the Secretary, Illinois Department of Human Services, 401 South Clinton, Chicago, Illinois. The amendments may be reviewed at all offices Monday through Friday from 8:30 A.M. until 5:00 P.M. These copies of the amendments are being made available for review in accordance with federal requirements at 42 CFR 447.205.

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

## 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities, and not for profit corporations affected: Ambulatory Surgical Treatment Centers will be affected by this rulemaking. The Department is unsure whether or not any of the affected entities may qualify as small businesses.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not anticipated by the Department when the two most recent

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

regulatory agendas were published.

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments which appears in this issue of the Register on page 13146.

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

upon his or her years of pre-July 1, 1998, optional service which are, or are in the processing of being, credited to the member's record after an initial application is made under Section 1650.391 to upgrade less than twenty years of creditable service. The provisions of this Section are similar to the provisions of Section 1650.391 with some notable exceptions. This Section provides that the member may apply for an upgrade of the optional service concurrently with the purchase of the optional service. The calculation was altered to recognize the fact that the member had elected to upgrade some years of service previously under Section 1650.391 and may have previously elected to upgrade some years of service under this Section. This Section harmonizes the System's current practice of calculating the largest number of years of optional service with a member's failure to make the full contribution for the upgrade charge in a timely fashion. Under certain circumstances, a recalculation will occur rather than a refund if there is such a failure.

- 6) Will this proposed amendment replace an emergency amendment currently in effect? Yes
- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
1650.380	Amend	22 Ill. Reg. 7314
1650.356	New Section	22 Ill. Reg. 9259*

\*The System will not proceed with this rulemaking. The enclosed Section 1650.356 is changed to reflect changes made by Public Act 90-582.

- 10) Statement of Statewide Policy Objectives: This rulemaking does create or expand a State mandate.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed amendment may be submitted in writing for a period of 45 days following publication of this Notice to:

Carl Mowery, General Counsel  
Teachers' Retirement System  
2815 West Washington, P.O. Box 19253  
Springfield, Illinois 62794-9253  
217/753-0961

- 12) Initial Regulatory Flexibility Analysis: These rules will not affect small businesses.

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: The Administration and Operation of the Teachers' Retirement System
- 2) Code Citation: 80 Ill. Adm. Code 1650
- 3) Section Numbers:  
1650.356 Proposed Action:  
1650.391 New Section  
1650.392 New Section
- 4) Statutory Authority: Implementing and authorized by Article 16 of the Illinois Pension Code [40 ILCS 5/Art. 16]; Freedom of Information Act [5 ILCS 140]; Internal Revenue Code (26 USC 1 et seq.); Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

- 5) A Complete Description of the Subjects and Issues Involved: The amendments to Section 1650.356 modify that Section to allow members to utilize the payroll deduction program as a payment option to pay the upgrade charges required under Section 16-129.1 of the Pension Code [40 ILCS 5/16-129.1].

The addition of Section 1650.391 clarifies the statutory language of Section 16-129.1 of the Pension Code [40 ILCS 5/16-129.1] with respect to the process by which a member may upgrade the retirement benefits based upon his or her years of pre-July 1, 1998, creditable service to the new 2% retirement benefit formula established in Public Act 90-582. A member must apply in writing for the upgrade. The date on which the application is received locks in the upgrade cost for a five-year period. The salaries used in the calculation are based upon the annual reports which the employer must file with the System on or before August 15 for the previous school year. This rule establishes August 15 as a pivotal date. The effective period for the application is the period between the date on which the application is received by the System and the end of a five-year period which commences on the August 15 after receipt of the application. The salaries used for those who apply between July 1 and August 15 shall be the most recent salaries on file with the System. All of the upgrade payments must be completed prior to the end of a five-year period commencing with the August 15 after the receipt of the application. The upgrade contribution is based upon a formula set forth in Section 16-129.1 of the Pension Code [40 ILCS 5/16-129.1]. The statutory phrase "failed to make the full contribution in a timely fashion" as the failure to make the full contribution during the effective period of the application or, at the election of the member, the member's termination of employment for any reason other than death or retirement.

The addition of Section 1650.392 harmonizes the statutory language of Section 16-129.1 of the Pension Code [40 ILCS 5/16-129.1] with respect to the process by which a member may upgrade the retirement benefits based



## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENTS

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments that appears on page 11151 of this issue of the Illinois Register.

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED REPEALER

1) Heading of the Part: Elementary and Secondary School Capital Assistance Program.

2) Code Citation: 23 Ill. Adm. Code 150

3) Section Number: Adopted Action:

150.10 Repeal  
150.20 Repeal  
150.30 Repeal  
150.40 Repeal  
150.50 Repeal  
150.60 Repeal

4) Statutory Authority: 20 ILCS 3105/1A-1.4.

5) Effective Date of Repealer: July 6, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rule contain incorporations by reference? The rules do not contain an incorporation by reference under Section 5-75 of the Illinois Administrative Procedure Act.

8) Date Filed in Agency's Principal Office: June 25, 1998

9) Notice of Proposal Published in Illinois Register:

January 30, 1998; 22 Ill. Reg. 2472.

10) Has JCAR issued a Statement of Objections to this repealer? No.

11) Difference(s) between proposal and final version: None.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were requested by JCAR, and no agreement letter was issued

13) Will this repealer replace an emergency repealer currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Repealer:

Part 150, adopted in 1983 in response to the Capital Development Board Act, now contains outdated requirements, P.A. 90-548, effective January 1, 1998, included enactment of a new School Construction Law which requires rulemaking on the part of the State Board. Part 150 is being repealed and a different Part number (151) has been assigned to the new

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED REPEALER

rules, in order to avoid potential confusion in the field.

- 16) Information and questions regarding this adopted repealer shall be directed to:

Gary V. Ey  
Associate Superintendent  
Illinois State Board of Education  
100 North First Street  
Springfield, Illinois 62777-0001  
(217) 782-5256

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Evaluation of Certified School District Employees in Contractual Continued Service

2) Code Citation: 23 Ill. Adm. Code 50

3) Section Number: Adopted Action:  
50.50 Amendment  
50.55 Amendment

4) Statutory Authority: 105 ILCS 5/24A-7

5) Effective Date of Rules: July 6, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rule contain incorporations by reference? The rules do not contain an incorporation by reference under Section 5-75 of the Illinois Administrative Procedure Act.

8) Date Filed in Agency's Principal Office: June 25, 1998

9) Notice of Proposal Published in Illinois Register: January 9, 1998; 22 Ill. Reg. 1081.

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version: The authority note has been changed by deleting the specific reference to P.A. 90-548, since that Act has now been codified.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were requested by JCAR, and no agreement letter was issued.

13) Will this amendment replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: Two laws have made specific changes in the requirements pertaining to treatment of teachers whose performance is rated unsatisfactory, and these changes need to be reflected in Part 50.

P.A. 89-15, enacted in 1995, shortened the potential for additional remediation time for Chicago teachers, after completion of a 45-day remedial period, from one year to six months. That Act also added a requirement that evaluations be issued to Chicago teachers within 10 days after their completion of remediation plans but stipulated that the board

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

of education would not lose jurisdiction to discharge a teacher if the ten-day timeline were not met. Further, it made periodic evaluations of Chicago teachers during remediation exempt from the procedural requirements that otherwise would apply, and it excluded Chicago from the provision permitting collective bargaining agents to supply rosters of potential consulting teachers to assist during remediation.

P.A. 90-548, enacted in December of 1997, made further changes to some of the same provisions affected by P.A. 89-15 and extended their effectiveness to teachers in all other school districts. Thus all teachers with unsatisfactory performance are now subject to one, ninety-day period of remediation in the classroom, and the possibility of an extension has been eliminated altogether. The ten-day timeline mentioned above has been made applicable in all districts, with the same proviso regarding loss of jurisdiction by the local board.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Name: J. Robert Sampson  
Address: Illinois State Board of Education  
100 North First Street  
Springfield, Illinois 62777-0001  
Telephone: (217)782-2805

The full text of the adopted amendments begins on the next page:

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES  
SUBTITLE A: EDUCATION  
CHAPTER I: STATE BOARD OF EDUCATION  
SUBCHAPTER b: PERSONNEL

## PART 50

EVALUATION OF CERTIFIED SCHOOL DISTRICT EMPLOYEES  
IN CONTRACTUAL CONTINUED SERVICE

## Section

- 50.10 Definitions  
50.20 Submission of Evaluation Plans  
50.30 Review of Evaluation Plans  
50.40 Content of Evaluation Plans for Teachers and School Service Personnel  
50.50 Unsatisfactory Evaluations - Districts With a Population of 500,000 or Fewer  
50.55 Unsatisfactory Evaluations - Districts With a Population Over 500,000  
50.60 Multi-Year Collective Bargaining Agreements  
50.70 Alternative Evaluations  
50.80 Evaluation of Administrative Staff

AUTHORITY: Implementing Sections 2-3.57 and 10-21.4a and Article 24A of the School Code [105 ILCS 5/2-3.57, 10-21.4a, and Art. 24A] (see P.A. 90-548, effective January 1, 1998) and authorized by Section 24A-7 of that Act [105 ILCS 5/24A-7].

SOURCE: Adopted at 10 Ill. Reg. 15050, effective August 28, 1986; amended at 12 Ill. Reg. 9882, effective May 27, 1988; amended at 14 Ill. Reg. 7503, effective May 7, 1990; amended at 22 Ill. Reg. 12507, effective

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## Section 50.50 Unsatisfactory Evaluations - Districts With a Population of 500,000 or Fewer

- a) The Plan shall provide, within 30 calendar days after an evaluation has been reduced to writing resulting in a rating of unsatisfactory, for the development and initiation by the district of a remediation plan designed to correct the areas identified as unsatisfactory, provided the deficiencies are deemed remediable.

1) The remediation plan shall provide for 90 school days of remediation within the classroom (Section 24A-5 of the School Code [105 ILCS 5/24A-5] (see P.A. 90-548, effective January 1, 1998)).

2) The remediation plan shall provide for quarterly evaluations and ratings to occur during the year immediately following the teacher's receipt of a remediation plan based upon an unsatisfactory evaluation.

3) The quarterly evaluations and ratings shall be conducted by a



## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

qualified administrator.

- A) When a quarterly evaluation schedule requires an evaluation after the close of the school year, but on or before July 15, such evaluation shall be scheduled to occur no later than two (2) weeks prior to the close of the preceding school year.
- B) When a quarterly evaluation schedule requires an evaluation after the close of the school year, but after July 15, such evaluation shall be scheduled to occur not later than two (2) weeks after students' attendance commences in the following school year.
- C) Failure to strictly comply with the timelines for the required quarterly evaluations because of illness or certain leaves granted teachers under a remediation plan, for example, shall not invalidate the results of the remediation plan.
- 4) The qualified administrator shall issue conduct the fourth and final evaluation within ten days after at the conclusion of the year specified in subsection (a)(2) of this Section (a)(2).
- 5) The remediation plan shall provide reinstatement to a schedule of biennial evaluations for any teacher who successfully completes the one-year remediation plan by receiving a satisfactory or better rating, unless the district's plan regularly requires more frequent evaluations. (Section 24A-5(i) of the School Code)

- b) Participants in the remediation plan shall include the teacher deemed unsatisfactory, a qualified administrator, and a consulting teacher. The remediation plan may include the participation of other personnel to assist in correcting areas identified as unsatisfactory.

- 1) The participation of the consulting teacher shall be voluntary.
- 2) The qualified consulting teacher shall be one who has received a rating of excellent on his or her most recent evaluation, has a minimum of five years experience in teaching, and has knowledge relevant to the assignment of the teacher under remediation.
- 3) The consulting teacher shall be chosen from a list developed by the district or, in districts with an exclusive bargaining agent, the bargaining agent may, if it chooses, supply a roster of at least 5 qualified teachers from which the consulting teacher is to be selected, or the names of all teachers so qualified if that number is less than 5. The participating administrator or principal of the teacher who was rated "unsatisfactory" shall select the consulting teacher.

- 4) Where no consulting teacher is available in a district, the district shall request the State Board of Education to provide a consulting teacher. The State Board of Education shall thereupon provide a consulting teacher who meets the requirements of subsection (b)(2) of this Section. The State Board of Education shall compensate any consulting teacher provided to a school

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

- district under this subsection.
- 5) If the consulting teacher becomes unavailable during the course of a remediation plan, a new consulting teacher shall be selected in the same manner as the initial consulting teacher. The remediation plan shall be amended as necessary upon consultation with the new consulting teacher for the balance of the remediation year.
- 6) The consulting teacher shall provide advice to the teacher rated as unsatisfactory on how to improve teaching skills and to successfully complete the remediation plan.
- 7) The consulting teacher shall not participate in any of the required quarterly evaluations, nor be engaged to evaluate the performance of the teacher under remediation, unless a collective bargaining agreement provides otherwise.
- 8) The consulting teacher shall be informed, through three quarterly conferences with the qualified administrator and the teacher under remediation, of the results of the first three quarterly evaluations in order to continue to provide assistance to the teacher under a remediation plan.
- c) The plan shall provide that any teacher who fails to complete the one-year remediation plan with a satisfactory or better rating shall be dismissed in accordance with Section 24-12 or 34-85 of the School Code [105 ILCS 5/24-12] (111 Rev. Stat. 1987, Ch. 122, par. 24-12 or 34-85).

(Source: Amended at 22 Ill. Reg. 12507, effective July 16, 1998)

#### Section 50.55 Unsatisfactory Evaluations - Districts with a Population Over 500,000

- a) The plan shall provide, within 30 calendar days after an evaluation has been reduced to writing resulting in a rating of unsatisfactory, for the development and initiation by the district of a remediation plan designed to correct the areas identified as unsatisfactory, provided the deficiencies are deemed remediable.

- 1) The remediation plan shall provide for evaluations and ratings to occur following the tenured teacher's receipt of a remediation plan based upon an unsatisfactory evaluation (Section 24A-5 of the School Code), as follows:

- A) The remediation plan shall provide for 90 school days of school remediation within the classroom (Section 24A-5 of the School Code).
- B) Additional remediation, up to one year (inclusive of the 90 days), may be provided only in those cases where, at the termination of the 45-day in-class remediation, the principal and consulting teacher (see subsection (b)) determine (based on the teacher's progress) that the teacher

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

~~may be remediable (Section 24A-5 of the School Code);~~  
~~it Such additional remediation shall create no~~  
~~presumption of remediability and may be terminated at~~  
~~any time after 45 or 90 school days by the principal~~  
~~(Section 24A-5 of the School Code);~~  
~~it The principal and consulting teacher shall determine~~  
~~if the additional remediation shall be conducted~~  
~~within or outside of the assigned classroom (Section~~  
~~24A-5 of the School Code);~~

BE The remediation plan shall also provide for monthly evaluations and ratings for the first six months and quarterly evaluations and ratings for the next six months immediately following completion of the remediation program of a teacher for whom a remediation plan has been developed. These subsequent evaluations shall be conducted by the qualified administrator and shall not be subject to the requirements set forth in Section 50.40 of this Part (Section 24A-5 of the School Code).

2) The evaluations and ratings shall be conducted by a qualified administrator.

A) When an evaluation schedule requires an evaluation after the close of the school year, but on or before July 15, such evaluation shall be scheduled to occur no later than two (2) weeks prior to the close of the preceding school year.

B) When an evaluation schedule requires an evaluation after the close of the school year, but after July 15, such evaluation shall be scheduled to occur not later than two (2) weeks after students' attendance commences in the following school year.

C) Failure to strictly comply with the timelines for the required evaluations because of illness or certain leaves granted teachers under a remediation plan, for example, shall not invalidate the results of the remediation plan.

3) The qualified administrator shall issue conduct the final evaluation within ten days after at the conclusion of the applicable remediation period specified in subsection (a)(1) of this Section, provided that the school board or other governing authority of the district shall not lose jurisdiction to discharge a teacher if this timeline is not met (Section 24A-5 of the School Code).

4) The remediation plan shall provide for reinstatement to a schedule of biennial evaluations for any teacher who successfully completes both the 90 day school day remediation plan or extended plan of up to one year and a one-year intensive review schedule by receiving a satisfactory or better rating in each instance, unless the district's plan regularly requires more frequent evaluations (Section 24A-5 of the School Code).

b) Participants in the remediation plan shall include the teacher deemed

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

unsatisfactory, a qualified administrator, and a consulting teacher. The remediation plan may include the participation of other personnel to assist in correcting areas identified as unsatisfactory.

1) The participation of the consulting teacher shall be voluntary.

2) The qualified consulting teacher shall be one who has received a rating of excellent on his or her most recent evaluation, has a minimum of five years experience in teaching, and has knowledge relevant to the assignment of the teacher under remediation.

3) The consulting teacher shall be chosen from a list developed by the district or in districts with an exclusive bargaining agent, the bargaining agent may, if it chooses, supply a roster of at least 5 qualified teachers from which the consulting teacher is to be selected, or the names of all teachers so qualified if that number is less than 5. The participating administrator or principal of the teacher who was rated "unsatisfactory" shall select the consulting teacher.

4) Where no consulting teacher is available in a district, the district shall request the State Board of Education to provide a consulting teacher. The State Board of Education shall thereupon provide a consulting teacher who meets the requirements of subsection (b)(2) of this Section. The State Board of Education shall compensate any consulting teacher provided to a school district under this subsection (b)(4).

5) If the consulting teacher becomes unavailable during the course of a remediation plan, a new consulting teacher shall be selected in the same manner as the initial consulting teacher. The remediation plan shall be amended as necessary upon consultation with the new consulting teacher for the balance of the remediation period.

6) The consulting teacher shall provide advice to the teacher rated as unsatisfactory on how to improve teaching skills and to successfully complete the remediation plan.

7) The consulting teacher shall not participate in any of the required evaluations, nor be engaged to evaluate the performance of the teacher under remediation, unless a collective bargaining agreement provides otherwise.

8) The consulting teacher shall be informed, through conferences with the qualified administrator and the teacher under remediation, of the results of the required evaluations in order to continue to provide assistance to the teacher under a remediation plan.

c) The plan shall provide that any teacher who fails to complete any applicable remediation plan with a satisfactory or better rating shall be dismissed in accordance with Section 34-85 of the School Code [105 ILCS 5/34-85] (111 Rev. Stat., 1989 Supp., ch. 322, par. 34-85).

(Source: Amended at 22 Ill. Reg. 12507, effective

JUL 06 1990

STATE BOARD EDUCATION  
NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Health/Life Safety Code for Public Schools.

2) Code Citation: 23 Ill. Adm. Code 180

<u>Section Number:</u>	<u>Adopted Action:</u>
180.10	Amendment
180.30	Amendment
180.60	Amendment
180.70	Amendment
180.80	Amendment
180.120	Amendment
180.200	Amendment
180.225	New Section
180.230	Amendment
180.250	New Section
180.260	New Section
180.270	New Section
180.280	New Section
180.500	Amendment

4) Statutory Authority: 105 ILCS 5/2-3.12, 2-3.25, and 17-2.11.

5) Effective Date of Rules: July 6, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rule contain incorporations by reference? The rules do contain several instances of incorporation by reference under Section 5-75 of the Illinois Administrative Procedure Act (see Sections 180.60, 180.200, 180.230, and 180.270).

8) Date Filed in Agency's Principal Office: June 25, 1998.

9) Notice of Proposal Published in Illinois Register:

March 13, 1998; 22 Ill. Reg. 4564.

10) Has JCAR issued a Statement of Objections to these rule(s)? No

11) Difference(s) between proposal and final version:

In Section 180.60, the phrase "Sections (a) through (d) of this Section" has been changed to "subsections (a) through (d) of this Section".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this amendment replace an emergency amendment currently in effect?

STATE BOARD EDUCATION  
NOTICE OF ADOPTED AMENDMENTS

No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: These amendments have several purposes. First and foremost, they incorporate the most recent version of the Building Officials and Code Administrators (BOCA) building code, so that our rules and Illinois school facilities keep pace with industry standards. In addition, the existing rules for Sprinkler Systems have been moved into Part 180 and repealed from their current location at 23 Ill. Adm. Code 170, so that all related requirements can be found in one set of rules. These have also been revised to reflect changes made by P.A. 90-566, which removed the State Superintendent from the approval process for sprinkler plans and exempted certain spaces from the requirement for sprinklers in favor of automated fire detection systems.

The amendments to Part 180 also set forth requirements for the use of temporary facilities, mainly to make existing practices explicit. Language has been added to specify the types of certificates of occupancy that will be issued and state the process for securing them. The rules now provide improved definitions of "mobile facility" and "waiver," conforming the latter with the waiver law (Section 2-3.25g of the School Code) and thereby removing the separate and redundant waiver system that has existed under these rules.

Finally, it has become apparent since the adoption of these rules several years ago that we should alleviate the stringency of our requirement for safety reference plans, so as not to place an undue burden on school districts where documents have been lost or destroyed.

16) Information and questions regarding these adopted amendments shall be directed to:

Nona Myers  
Illinois State Board of Education  
100 North First Street  
Springfield, Illinois 62777-0001  
(217) 785-8779

The full text of the adopted amendments begins on the next page:



## STATE BOARD EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

## TITLE 23: EDUCATION AND CULTURAL RESOURCES

## SUBTITLE A: EDUCATION

## CHAPTER I: STATE BOARD OF EDUCATION

## SUBCHAPTER d: CONSTRUCTION AND BUILDING MAINTENANCE

## PART 180

## HEALTH/LIFE SAFETY CODE FOR PUBLIC SCHOOLS

## SUBPART A: GENERAL PROVISIONS

Section  
180.10  
180.20  
180.30  
180.40  
180.50  
180.60  
180.70  
180.80

Purpose and Scope  
Severability  
Definitions  
Responsibilities of Local School Board  
Responsibilities of Regional Superintendent  
Applicability  
Variances and Waivers  
Vehicular ~~Mobility~~ Facilities

## SUBPART B: RECORDKEEPING REQUIREMENTS

Section  
180.100  
180.110  
180.120

District Facility Records Required  
District Facility Inventory  
Safety Reference Plans

## SUBPART C: CONSTRUCTION AND LIKE ACTIVITIES

Section  
180.200  
180.210  
180.220  
180.225  
180.230  
180.240  
180.250  
180.260  
180.270  
180.280

Application for Building Permit  
Issuance of Building Permit  
Inspections Upon Completion of Construction  
Application for Certificate of Occupancy  
Certificate of Occupancy  
Demolition or Movement of Buildings or Other Structures  
Sprinkler Systems  
Sprinkler System Requirements and Applicability  
Standards for Sprinkler Systems  
Standards for Sprinkler System Plans and Specifications

## SUBPART D: INSPECTIONS

Section  
180.300  
180.310  
180.320

Regional Superintendent's Annual Building Inspection  
Decennial Inspections  
Safety Survey Report

## STATE BOARD EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

180.330 Local Board Action

180.340 Approval of Safety Survey Reports

## SUBPART E: ADDRESSING VIOLATIONS

Section  
180.400  
180.410  
180.420

Violations  
Unsafe Conditions  
Temporary Closing and Condemnation

## SUBPART F: FIRE PREVENTION AND SAFETY FINANCING

Section  
180.500  
180.510  
180.520  
180.530  
180.540

Request for Authorization  
Initiation of Work  
Accounting for Fire Prevention and Safety Funds  
Emergencies  
Cost Estimates

AUTHORITY: Implementing and authorized by Sections 2-3.12, 2-3.25, and 17-2.11 of the School Code [105 ILCS 5/2-3.12, 2-3.25, and 17-2.11].

SOURCE: Adopted at 19 Ill. Reg. 5004, effective March 24, 1995; amended at 22 Ill. Reg. ~~12514~~, effective ~~JUL 06 1998~~.

## SUBPART A: GENERAL PROVISIONS

## Section 180.10 Purpose and Scope

- a) The purpose of this Part is to establish minimum standards for public school facilities which will protect the health, safety, and general welfare of the pupils, school personnel, and others who use them.
- b) The requirements set forth in this Part shall apply to all Illinois public school districts except those governed by Article 34 of the School Code. The facilities of districts governed by Article 34 are subject to the requirements of Sections 180.250 through 180.280 of this Part (see Section 22-23 of the School Code [105 ILCS 5/22-23]) and in all other respects shall comply with local building codes.

(Source: Amended at 22 Ill. Reg. ~~12514~~, effective ~~JUL 06 1998~~)

## Section 180.30 Definitions

"Annual Inspection" means the inspection conducted annually by a regional superintendent of all the public schools under his or her jurisdiction as required by Section 3-14.21 of the School Code.

"Approved Inspection Agency" (also commonly referred to as "Nationally

## STATE BOARD EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

Recognized Testing Laboratory") means any of the following:

American Gas Association Laboratories  
 Central Experiment Station, Bureau of Mines, U.S. Department of the Interior  
 Engineering Experiment Station, Ohio State University  
 Factory Mutual Laboratories (Factory Mutual Engineering Division)  
 Forest Products Laboratory, U.S. Department of Agriculture  
 National Bureau of Standards, U.S. Department of Commerce  
 Southwest Research Institute  
 Underwriters' Laboratories, Inc.  
 Underwriters' Laboratories of Canada

"Architect" means an architect licensed to practice in Illinois under the Illinois Architecture Practice Act of 1989 [225 ILCS 305] and the administrative rules of the Department of Professional Regulation which implement that Act (68 Ill. Adm. Code 1150).

"Change in Use" means any change in how an existing facility is operated, or the purpose for which it is used, that requires greater structural strength, changes in provisions for ingress or egress, or changes in the electrical system, plumbing system, heating, ventilating, and air conditioning system, fire protection system, or other system required by this Part.

"Construction Documents" means the written and pictorial documents prepared or assembled by a licensed design professional to describe the design, location, and physical characteristics of a project involving construction or other like activities subject to the requirements of this Part. Such documents include plans, specifications, inspection reports, test reports, maps, educational specifications, enrollment projections, maintenance logs, safety reference plans, and other, similar, descriptive documents.

"Plans" are drawings. They show what a building, system, or component looks like or will look like at a particular stage of construction.

"Specifications" are instructions. They identify materials to be used, methods to be employed, details and calculations to be

## STATE BOARD EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

considered, and the relationships among design components.

"Decennial Inspection" means the inspection of all buildings in a school district conducted at least every 10 years as required by Section 2-3.12 of the School Code, which shall be conducted by a licensed design professional and shall result in a safety survey report as defined in this Section.

"Engineer" means an engineer licensed to practice in Illinois under either the Illinois Professional Engineering Practice Act of 1989 [225 ILCS 325] or the Structural Engineering Licensing Act of 1989 [225 ILCS 340] and the applicable administrative rules of the Department of Professional Regulation (68 Ill. Adm. Code 1380 or 68 Ill. Adm. Code 1480, respectively).

"Facility" means land, buildings, structures and improvements other than buildings, and permanent, fixed equipment attached to or incorporated in any building owned or used for school purposes by a school district subject to this Part. This definition excludes facilities owned by a school district but not used for public school purposes, which shall be subject to local building codes.

"~~Vehicular Mobile Facility~~" means a vehicular structure that is mounted on a chassis and wheels, subject to transportation from place to place along normally traveled streets, roads, and highways, and subject to occupancy and use virtually immediately upon arrival at its destination ~~vehicle-used-by--students--and/or staff--as--an-alternative-to-a-building-or-structure--and-not-for transportation.~~

"Licensed Design Professional" means either an architect or an engineer as defined in this Section.

"Like Activity" means any work involving or similar to construction which is performed with respect to any facility of a school district subject to the requirements of this Part, including but not limited to reconstruction, substantial alteration, repair, remodeling, renovation, or change in use. Repairs which qualify as minor repairs shall not be considered "like activities" subject to the requirements of this Part.

"Minor Repairs" are any repairs to an individual building or structure which are not subject to the bidding requirements of Section 10-20.21 of the School Code, with the following exceptions:

Cutting away of any wall, partition, or portion thereof;

Cutting or removal of a structural beam or load-bearing support;

## STATE BOARD EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

Removal of or change in a required means of egress;

Rearrangement of parts affecting exit requirements;

Addition to, alteration of, replacement, or relocation of any standpipe, drain leader, or gas, soil, waste, water supply, sewer drainage, vent or similar piping; electrical wiring; or mechanical or other required building system.

"Safety Survey Report" means a report prepared by a licensed design professional and ensuing from a decennial inspection required pursuant to Section 180.310 of this Part or another inspection conducted by a licensed design professional.

"School Building" or "School" means a building occupied in whole or in part by public school students or intended for occupancy by such students.

"The School Code" means the School Code [105 ILCS 5].

"Variance" means an alternative to a code requirement that is judged to provide equal or superior performance or protection compared to the code requirement, and is approved by the State Superintendent.

"Waiver" means an exemption from a code requirement that is approved pursuant to Section 2-3.25g of the School Code [105 ILCS 5/2-3.25g] and the State Board's rules at 23 Ill. Adm. Code 1.100 by the State Superintendent because the applicable code requirement is shown to be either economically or technically unfeasible in the case at hand, and because exemption from the particular requirement does not pose a serious threat to the health or safety of the occupants of the facility in question.

(Source: Amended at 22 Ill. Reg. 16811, effective JUL 06 1998)

## Section 180.60 Applicability

Every After the effective date of this Part, March 24, 1995, every facility other than a vehicular mobile facility shall conform to the "BOCA National Building Code" published by the Building Officials and Code Administrators (1996 1993; 4051 W. Flossmoor Road, Country Club Hills, Illinois 60478-5795), as modified by subsections Sections (a) through (d) of this Section, unless a variance or waiver is obtained pursuant to Section 180.70 of this Part or use of a temporary facility is authorized pursuant to Section 180.230 of this Part. No later amendments to or editions of these standards are incorporated by this rule. The effective date called for in Section 3408.2 of the BOCA National Building Code shall be the effective date of this Part. BOCA permits a

## STATE BOARD EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

facility constructed prior to its the effective date of this Part, March 24, 1995, to be maintained in compliance with the building code that previously applied to the facility, and provide separate provisions governing the alteration, repair, change of occupancy, replacement of component parts or systems, and enlargement of an existing facility. (BOCA, Section 102.2; Chapter 34.)

- a) The administrative provisions of this Part shall apply instead of the administrative provisions contained in Sections 101, 103-114 109-1007 110-114, 116 and 118-121 of Chapter 1 of the BOCA National Building Code.
- b) The Illinois Accessibility Code (71 Ill. Adm. Code 400) shall apply instead of the accessibility provisions set forth in Chapter 11 of the BOCA National Building Code.
- c) The requirements set forth in the Illinois Plumbing Code (77 Ill. Adm. Code 890) shall apply instead of those expressed in the BOCA National Plumbing Code incorporated in Chapter 35 of the BOCA National Building Code.
- d) The requirements set forth in the Illinois State Fire Marshal's rules titled Boiler and Pressure Vessel Safety (41 Ill. Adm. Code 120) shall apply instead of those expressed in the Boiler and Pressure Vessel Safety Code (ASME 89) published by the American Society of Mechanical Engineers and incorporated in Chapter 35 of the BOCA National Building Code.

(Source: Amended at 22 Ill. Reg. 16811, effective JUL 06 1998)

## Section 180.70 Variances and Waivers

- a) When a requirement or standard set forth in any code incorporated herein cannot be satisfied, a school board may apply for a waiver of that requirement or standard pursuant to Section 2-3.25g of the School Code and the State Board's rules at 23 Ill. Adm. Code 1.100.
- b) Except as limited by subsection (b)(3) of this Section, when a requirement or standard set forth in any code incorporated herein can be satisfied by an alternative means, or cannot be satisfied, a school board may apply for a variance or a waiver, respectively, as defined in Section 180.30 of this Part.
  - 1) The in either case, the affected facility must have been surveyed by a licensed design professional.
  - 2) The When a variance is sought, the architect or engineer conducting the survey shall certify and document in what particular respects the proposed alternative provides performance or protection equal or superior to that provided by the code requirement(s) from which a variance is sought.
  - 3) The requirements relative to sprinkler systems set forth in Sections 180.250 through 180.280 of this Part may not be varied pursuant to this subsection (b). Waivers or modifications of



## STATE BOARD EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

those requirements may only be requested pursuant to Section 2-3.25g of the School Code and the State Board's rules at 23 Ill. Adm. Code 1.100. When a waiver is sought, the architect or engineer conducting the survey shall certify and document in what particular respects it is impracticable to comply with the particular code requirement, and upon what facts or basis he or she contends that the waiver of the code requirement will not pose a serious threat to the life or safety of the occupants of the facility.

## c) b) Procedure for Obtaining Variances and Waivers

- 1) The board of education shall complete and submit an application for approval of a variance or waiver to the State Superintendent through the regional superintendent.
- 2) An application shall be submitted for each variance or waiver sought for a particular facility, and shall:

- A) Describe the ~~Specify whether a~~ variance or a waiver is being sought;
- B) Identify the board of education seeking the variance or waiver, the basis upon which it is seeking the variance or waiver, and the facility for which the variance or waiver is being sought;
- C) Indicate the date upon which the board of education adopted a resolution to seek the variance or waiver;
- D) Indicate the specific rule from which a variance or waiver is sought;
- E) Include, by attachment, the statement(s), supporting documents, and certification of the architect or engineer who surveyed the facility; and
- F) Be signed by the president and secretary of the board of education and the district superintendent.

- 3) Upon receipt of an application for approval of a variance or waiver, the regional superintendent shall record the identifying information, the date of submission, and the subject rule in his or her records and forward the application, his or her recommendation regarding its approval, and supporting materials to the State Superintendent.

- 4) Upon receipt of the application for approval of a variance or waiver, the State Superintendent may appoint a technical review panel which will review the application and supporting materials, recommend approval or denial of the variance or waiver, and recommend any special conditions under which approval should be granted.

- 5) The State Superintendent shall issue either a letter certificate of variance or waiver indicating approval, the date, and any special conditions, or a letter of denial. He or she shall return the application, supporting materials, and letter of approval certificate or denial to the regional superintendent for processing and forwarding to the board of education.

## STATE BOARD EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

- 6) Upon receipt of the State Superintendent's decision certificate, the regional superintendent shall amend his or her records to reflect the conditions and particulars of approval, if approved; or proceed with enforcement of the code if disapproved; and forward the documents to the district originating the application for implementation.

## d) e) Variances and Waivers shall be subject to review and revocation:

- 1) In conjunction with any substantial repair, alteration, new construction, or change in use that may affect the conditions upon which the variance or waiver was granted;
- 2) If material facts upon which the variance or waiver was based change or are found to be false or erroneous;
- 3) In the course of review and approval of the next decennial survey conducted in accordance with Subpart D of this Part; or
- 4) When a code is amended to incorporate the substance of a variance or ~~delete a requirement previously waived~~.

(Source: Amended at 22 Ill. Reg. 125142, effective JUL 06 1998)

## Section 180.80 Vehicular Mobile Facilities

A vehicular mobile facility may be used, provided that:

- a) It is licensed and/or titled as required by applicable provisions of the Motor Vehicle Code and rules promulgated by the Secretary of State or the Department of Transportation; and
- b) The regional superintendent has inspected the vehicular mobile facility and found that it does not pose a serious threat to the life or safety of its occupants; and
- c) It has received a certificate of occupancy from the regional superintendent.

(Source: Amended at 22 Ill. Reg. 125142, effective JUL 06 1998)

## SUBPART B: RECORDKEEPING REQUIREMENTS

## Section 180.120 Safety Reference Plans

Safety reference plans are the "as built" drawings of a facility, updated to include the applicable items required under this Section. These plans shall reflect all additions, alterations, and other changes to these facilities that affect the arrangement, use, rated capacity, student capacity, or other information required to be shown thereon. They shall serve as a means of indicating the safety-related conditions of a facility, as an aid in developing emergency exit plans, and in other circumstances where reference to overall layouts is necessary.

- a) Each local school board shall maintain up-to-date safety reference

## STATE BOARD EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

plans for all facilities owned or used by the district for any school purpose. However, replacement of lost or destroyed safety reference plans will not be required if the regional superintendent determines that such replacement would be overly expensive or burdensome. ~~These plans shall reflect all additions, alterations, and other changes to these facilities that affect the arrangement, use, rated capacity, student capacity, or other information required to be shown thereon.~~ Each set of safety reference plans shall include:

- 1) A site plan meeting the requirements of subsection (e) of this Section;
  - 2) Schematic floor plans as described in subsection (f) of this Section;
  - 3) An attic plan meeting the requirements of subsection (h) of this Section, if required pursuant to subsection (g) of this Section; and
  - 4) Such additional drawings and/or ~~and~~ schedules as may be necessary to effectively describe the nature and operational characteristics of the facility in question.
- b) Safety reference plans shall be drawn to scale, using a medium suitable for reproduction and revision. Each safety reference plan and any revision thereto shall be titled, dated, signed, and certified by the architect or engineer responsible for its preparation.
- c) Two complete sets of safety reference plans shall be provided for each facility, one to be kept by the board of education in a safe place and one to be kept on the site to which it applies.
- d) Whenever safety reference plans are completed or up-dated, they shall be submitted to the regional superintendent for review and approval.
- e) Each site plan shall be drawn to a scale sufficient to show the required information clearly and legibly, and shall include a legend. The site plan shall include the location and identification of:
- 1) Highways, boulevards, avenues, or streets bordering the site;
  - 2) Each building or other structure on the site;
  - 3) Each building located on adjacent property less than 75 feet away from a school building;
  - 4) Public fire hydrants and municipal fire alarm boxes adjacent to or on the site;
  - 5) Utility supply services (water, gas, electricity, etc.) leading into the site and into each building or other structure, their size, and the location of shut-offs for each such service;
  - 6) Primary walkways, fire lanes, and bus loading and unloading zones;
  - 7) Play areas and automobile parking areas, and the surfacing material of each;
  - 8) Landscaping or other materials or areas on the site that might impede ingress or egress;
  - 9) Fences and gates, and their respective heights;
  - 10) Elevation with respect to sea level and location with respect to floodways and floodplains; and

## STATE BOARD EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

- 11) Unusual terrain.

f) Each schematic floor plan shall be drawn for one floor of a building, to a scale sufficient to show the required information clearly and legibly, and shall include a legend. Each floor plan shall include the following information.

- 1) Identification of each fire area shown on the Plan, and a statement establishing the height in stories, construction type, protection classification and Plan classification of each such fire area.
  - 2) The elevation of each floor level with respect to the floor level of the lowest street floor. The street-floor plan shall show the difference in elevation between its floor level and the grade level outside at each point of ingress-egress from the building to a point 12 feet from the building line.
  - 3) The location of all existing or proposed partitions and walls, the identification of those partitions and walls required to have a fire resistance rating, and the rating so required.
  - 4) The identification of each room and space as to its occupancy and use.
  - 5) The designation of the rated population capacity and student enrollment capacity for each floor and each occupied room or space thereon.
  - 6) The identification of the areas protected or proposed to be protected by a sprinkler and/or fire detection system.
  - 7) The location, arrangement and width of each stairway, ramp, fire resistive passageway, fire escape and slide escape which serves as a required means of exit, and of each corridor, passageway, primary egress aisle or balcony which provides the required path of travel to each such exit.
  - 8) The location, direction of swing, width, type, and, where required, fire rating of each door located in the path of travel to a required exit or serving as part of a required exit.
  - 9) The locations of vertical openings and the existing or proposed protection for such openings.
  - 10) The existing or proposed locations of fire alarm boxes, fire alarm horns and lights, exit lights, emergency lighting, and fire alarm control panel.
  - 11) The location of primary air distributing or recirculating fans and designation of the areas served by each such fan.
  - 12) Location and identification of fuel burning equipment (both permanent and moveable).
  - 13) On the basement plan, or lowest street floor plan if no basement exists, the location and height of service tunnels and under-floor crawl spaces along with the existing or proposed method of separating such tunnel and spaces from adjacent occupied spaces.
- g) A plan shall be included for each attic:
- 1) Which is used, or can be used, for storage purposes; or

STATE BOARD EDUCATION  
NOTICE OF ADOPTED AMENDMENTS

- 2) Which is of combustible construction and used as an open- plenum chamber; or
- 3) Which has an average clear height from the top of the ceiling below to the underside of the roof joists or slab (if no joists exist) of more than 42 inches.
- h) Each attic plan shall show:
- 1) The construction of the roof and ceiling;
  - 2) The slope of the roof and such other details as necessary to illustrate the size and arrangement of the attic;
  - 3) Access doors, ducts and other openings into the attic and existing or proposed protection for such openings;
  - 4) Existing or proposed fire-stopping for subdividing attics;
  - 5) The existing or proposed automatic protection (sprinkler or fire detection) and the area to be protected.

(Source: Amended 1990 at 22 Ill. Reg. 1201.10, effective JUL 96)

SUBPART C: CONSTRUCTION AND LIKE ACTIVITIES

Section 180.200 Application for Building Permit

No construction or other, like activity as defined in Section 180.30 of this Part shall begin until a building permit has been obtained pursuant to the following provisions.

- a) The school board shall file an Application for a Building Permit ("application") with the regional superintendent having jurisdiction over the board of education in question, on a form prescribed supplied by the regional superintendent State-Board-of-Education. If the board is not the owner, the board shall attach an affidavit from the owner indicating the owner's consent for the proposed work.
- b) The completed application shall be accompanied by two copies of all relevant construction documents. Plans and specifications submitted as part of an application shall be prepared by or under the supervision of an architect or engineer. They shall bear the stamp of, and the following certification signed by, the responsible architect or engineer:

"I hereby certify that these plans and specifications were prepared under my supervision and to the best of my knowledge comply with (here insert the code or codes, including the edition, upon which the plans and specifications were drawn).

These plans and specifications consist of the following:

(here list the plates or sheets constituting the plans & specifications)

STATE BOARD EDUCATION  
NOTICE OF ADOPTED AMENDMENTS

(Seal) by \_\_\_\_\_  
(Architect/Engineer Signature)  
(Date Signed) \_\_\_\_\_ (Lic. # and Exp. Date)"

- 1) Plans shall be drawn to scale and be based upon the "Architectural Graphics Standards" published by the American Institute of Architects (1988; 1735 New York Avenue, NW, Washington, D.C. 20006). No later amendments to or editions of these standards are incorporated by this rule.
- 2) Specifications shall, to the greatest extent possible, be written in conformance with the Construction Specifications Institute's "Master format" published by John Wiley and Sons, Inc. (1988; 601 Madison Street, Alexandria, Virginia 22314), or the "Uniform at II" published by the American Society for Testing and Materials (1993; 1916 Race Street, Philadelphia, Pennsylvania 19103-1187). No later amendments to or editions of these standards are incorporated by this rule.
- 3) Whenever reference is made in plans or specifications to this Part or the codes incorporated by reference herein, such reference shall identify the specific edition, section and subsection(s) applicable to the subject in question.
- c) Upon receipt of an application, the regional superintendent shall record the date of submission by the school board and assign a unique identification number to said application. This identification number shall be used on all building permits issued pursuant to the application.
- d) ~~The regional superintendent shall review the application to determine whether or not the nature and extent of the proposed work are such as to require plans and specifications for the installation of a sprinkler system as provided in 23-III-Adm-Code-470-(Sprinkler System).~~
  - i) ~~If a sprinkler system is required or proposed and the plans and specifications are included, he or she shall separate such plans and specifications and forward them to the State Board of Education for review and approval.~~
  - 2) ~~If a sprinkler system is required but no plans and specifications are included, he or she shall notify the applicant of such deficiency.~~
  - 3) ~~If no sprinkler system is required or proposed, he or she shall proceed with the review of the application and construction documents.~~
- e) If the proposed work involves the installation of a closed, prefabricated mechanical system (e.g., a window air conditioner or heating, ventilating, air conditioning (HVAC) unit), the regional superintendent shall not issue a building permit until he or she has reviewed an evaluation report on such system from an approved inspection agency and verified that the report supports the use of the



## STATE BOARD EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

mechanical system in question as proposed.

(Source: JUL 06 1998 at 22 Ill. Reg. 12513, effective 12513)

**Section 180.225 Application for Certificate of Occupancy**

A school board wishing to occupy a facility subject to this Part shall make application to the regional superintendent, on a form prescribed by the regional superintendent. A board may request either a general certificate of occupancy, a certificate of partial occupancy, a certificate of occupancy for a temporary facility, or a certificate of occupancy for a vehicular facility, as applicable (see Section 180.230 of this Part). The regional superintendent shall respond to a request for a certificate of occupancy within 20 calendar days after his or her receipt of such a request.

(Source: Added at 22 Ill. Reg. 12513 effective JUL 06 1998)

**Section 180.230 Certificate of Occupancy**

A certificate of occupancy shall be obtained prior to any occupancy of a facility, including a vehicular facility. A certificate of occupancy shall be printed on a form supplied by the State Board of Education and may be either general or temporary.

- a) General Certificate of Occupancy  
When the work covered by a building permit is complete or a facility complies with the requirements of this Part, and upon presentation of accurate safety reference plans for the facility certified by an architect or engineer to be in compliance with this Part (see Section 180.120 of this Part), the regional superintendent shall issue a general certificate of occupancy.
- b) Certificate of Partial Occupancy  
When requested to do so, a regional superintendent shall issue a certificate of partial occupancy before completion of the entire work covered by a permit, provided that his or her inspection indicates that some area(s) can be occupied safely prior to full completion.
- c) Certificate of Occupancy for a Temporary Facility  
Effective July 1, 1998, a regional superintendent, when requested to do so, shall issue a one-year certificate of occupancy for a temporary facility, allowing use of a facility which does not comply with all the requirements of this Part, provided that all the following requirements are met.
  - 1) Use of the facility is necessary to meet a temporary need of the school district, as verified by the regional superintendent.
  - 2) The school board presents a plan either for replacement of the temporary facility with a facility meeting the requirements of this Part or for the elimination of the temporary need upon which

## STATE BOARD EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

the request is based. The school board's plan includes positive action to accomplish this end within a specified period of time, during which the certificate may be annually renewed.

- 3) The facility has been surveyed by a licensed design professional, whose report is attached identifying the respect(s) in which the facility fails to comply with the requirements of this Part and certifying that such noncompliance does not jeopardize the general health and safety of the students and others who occupy the facility.

- 4) If the facility is a premanufactured unit such as a mobile home, trailer unit, or other, similar structure, the application shall include evidence that all of the following conditions exist:

A) The facility has received the seal of approval issued by the Illinois Department of Public Health pursuant to the Manufactured Housing and Mobile Home Safety Act [430 ILCS 115];

- B) The facility is anchored as specified in "Manufactured Home Installations (NCSBCS/ANSI A225.1)," published by the National Conference of States on Building Codes and Standards, Inc. (1994; 505 Huntmar Park Drive, Suite 210, Herndon, Virginia 22070);

- C) The facility is separated from other buildings by the distance required pursuant to the BOCA National Building Code; and

- D) The facility is connected to the fire alarm system and intercom or telephone system of a nearby school building, if such a system is present.

- d) Certificate of Occupancy for a Vehicular Facility  
When requested to do so, a regional superintendent shall issue a certificate of occupancy for a vehicular facility, provided that the facility meets the requirements of Section 180.80(a) and (b) of this Part.

- e) If requested to do so, a regional superintendent shall issue a temporary certificate of occupancy before completion of the entire work covered by a permit, provided that his or her inspection indicates that some area(s) can be occupied safely prior to full completion.

- b) If the work is complete and complies with the requirements of this Part, and upon presentation of accurate safety reference plans for the facility, certified by an architect or engineer to be in compliance with this Part, the regional superintendent shall issue a general certificate of occupancy.

- c) The regional superintendent shall respond to a request for a certificate of occupancy within 20 calendar days of his or her receipt of such a request.

(Source: Amended at 22 Ill. Reg. 12513, effective JUL 06 1998)

## STATE BOARD EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

**Section 180.250 Sprinkler Systems**

This Section and Sections 180.260, 180.270, and 180.280 of this Part set forth the requirements and standards for sprinkler systems installed in school buildings pursuant to the provisions of Section 22-23 of the School Code. The requirements set forth herein shall apply to the school board, Board of Education, Board of School Directors, Board of School Inspectors, or other governing body of each school district in this State, including special charter districts and districts organized under Article 34. (Section 22-23 of the School Code)

(Source: Added at 22 Ill. Reg. 12514, effective JUL 06 1993)

**Section 180.260 Sprinkler System Requirements and Applicability**

a) No school construction shall be commenced in any school district unless sprinkler systems are required by the plans for such construction (Section 22-23 of the School Code).

b) "School construction" means any of the activities enumerated in Section 22-23 of the School Code, when the affected building is occupied in whole or part by public school students or is intended for occupancy by such students. 12514

(Source: Added at 22 Ill. Reg. 12514, effective JUL 06 1993)

**Section 180.270 Standards for Sprinkler Systems**

Sprinkler system plans shall conform to the requirements set forth in the "Standard for the Installation of Sprinkler Systems" (NFPA 13; 1994) and, where alternative protection is necessary, plans for such protection shall conform to the requirements set forth in "Dry Chemical Extinguishing Systems" (NFPA 17; 1994), both published by the National Fire Protection Association, 1 Battery March Park, Quincy, Massachusetts 02269-9101. (No later amendments to or editions of these standards are incorporated by this Section.)

(Source: Added at 22 Ill. Reg. 12514, effective JUL 06 1993)

**Section 180.280 Standards for Sprinkler System Plans and Specifications**

a) Preliminary plans and specifications submitted as part of applications for building permits shall define the extent, arrangement, and quality of the work described therein.

b) Preliminary plans and specifications shall be prepared by or under the supervision of an architect or engineer licensed to practice in Illinois, and shall bear the stamp of and a certificate signed by the

## STATE BOARD EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

responsible architect or engineer, which shall have the following form: Architect's or Engineer's Certificate

"I hereby certify that these plans and specifications for the installation of a sprinkler system, including any alternative forms of protection, were prepared under my supervision and, to the best of my knowledge, comply with the requirements identified in 23 Ill. Adm. Code 180.260 and 180.270. These plans and specifications consist of the following:

(architect or engineer to list contents)

(Date) \_\_\_\_\_ (Signature and Stamp) \_\_\_\_\_  
(Source: Added at 22 Ill. Reg. 12514, effective JUL 06 1993)

## SUBPART F: FIRE PREVENTION AND SAFETY FINANCING

**Section 180.500 Request for Authorization**

a) A school board desiring to use fire prevention and safety funds shall submit to the regional superintendent, on forms supplied by the State Board of Education, a Request for Authorization ("request"). The request shall consist of a Statement of Facts and Assurances and a Summary of Financing Requirements and shall be accompanied by the following documents, prepared and certified by a licensed design professional:

- 1) A sketch map showing district boundaries and the locations of all facilities, and
  - 2) A sketch showing facilities on each site involved in the request, and
  - 3) Schematic floor plans or other drawings necessary to show and describe the facility in question and the nature of the work to be done, and
  - 4) A Violation and Recommendation Schedule including a brief description of each violation and the recommended correction, and
  - 5) A Statement of Estimated Costs.
- b) If the request is submitted within one year after approval of the district's most recent safety survey report and that report remains accurate, any of the documents contained in that report may be used to meet the comparable requirements of subsections (a)(1) through (a)(5) above.
- c) Fire prevention and safety financing shall only be approved if:
- 1) the district has levied at its maximum authorized rate for its operations and maintenance fund for the most recent year for which tax rates are available; and

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

- 2) the district does not have sufficient unrestricted funds (as defined in 23 Ill. Adm. Code 110, Table B) in its operations and maintenance fund and/or its fire prevention and safety fund to pay for the necessary work.
- d) If the regional superintendent finds that the request is complete and approvable, he or she shall so certify and forward the request with such certification to the State Superintendent of Education. If the regional superintendent disapproves the request, he or she shall so certify and return the request with such certification to the local board. *The regional superintendent shall approve or disapprove each request within three months after its submission by a local board.*
- e) *A board of education whose request is denied--by--a--regional superintendent--or not acted upon within three months may submit the request to the State Superintendent for review.* (Section 17-2.11 of the School Code)
- f) Except under emergency circumstances as provided for in Section 180.530 ~~180-570~~ of this Part, a regional superintendent shall not grant approval to use fire prevention and safety funds for any work which has already been initiated, without the prior express authorization of the State Superintendent. (Section 17-2.11 of the School Code)
- g) If the State Superintendent finds that a request is complete and approvable, he or she shall so certify and return the approved request with such certification to the regional superintendent.
- h) Upon receipt of an approved request from the State Superintendent, the regional superintendent shall issue an order to implement the request and forward the request and the order to the originating school board.

(Source: Amended at 22 Ill. Reg. 1251, effective JUL 06 1998)

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Pupil Transportation
- 2) Code Citation: 23 Ill. Adm. Code 275
- 3) Section Number: Adopted Action:  
275.20 Amendment  
275.90 Amendment  
275.115 New Section
- 4) Statutory Authority: 105 ILCS 5/2-3.6; 625 ILCS 5/12-807.2 and 12-812(b).
- 5) Effective Date of Rules: July 6, 1998
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rule contain incorporations by reference? The rules do not contain an incorporation by reference under Section 5-75 of the Illinois Administrative Procedure Act.
- 8) Date Filed in Agency's Principal Office: June 25, 1998
- 9) Notice of Proposal Published in Illinois Register: March 13, 1998; 22 Ill. Reg. 4583.
- 10) Has JCAR issued a Statement of Objections to these rule(s)? No
- 11) Difference(s) between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were requested by JCAR, and no agreement letter was issued.
- 13) Will these amendments replace emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: P.A. 90-108, enacted in July of 1997, added a new section to the Illinois Vehicle Code requiring the use of crossing control arms on school buses. The State Board of Education is authorized to promulgate rules governing their use.

A new Section 275.115 is being added to the rules for Pupil Transportation to set forth the requirements that are needed to implement the new law. In addition, updates are being made in several existing Sections where appropriate to acknowledge the use of crossing arms. Finally, language is being deleted from Section 275.20(d) because it only repeats statutory language. The requirements it conveys are still in effect (see Section 29-3 of the School Code); the rule is being changed only because it is not



STATE BOARD OF EDUCATION  
NOTICE OF ADOPTED AMENDMENTS

necessary to include an explanation of that statute in these rules.  
16) Information and questions regarding these adopted amendments shall be directed to:

Name: Marcia Sailsbury  
Address: Illinois State Board of Education  
100 North First Street  
Springfield, Illinois 62777-0001  
Telephone: (217) 782-5256

The full text of the adopted amendments begins on the next page:

STATE BOARD OF EDUCATION  
NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES  
SUBTITLE A: EDUCATION  
CHAPTER I: STATE BOARD OF EDUCATION  
SUBCHAPTER h: TRANSPORTATION

PART 275  
PUPIL TRANSPORTATION

Section	
275.10	Definition of a School Bus
275.20	Routing
275.30	Annual Medical Examination and Certificate (Repealed)
275.40	Permit Application Process (Repealed)
275.50	Hearings (Repealed)
275.60	Vehicles Designed to Carry Nine Passengers or Less Excluding the Driver (Repealed)
275.70	Issuance of Permit (Repealed)
275.80	Training
275.90	Bus Safety Training for Students
275.100	Responsibility of Local School Boards
275.110	Operating a School Bus
275.115	School Bus Crossing Arm
275.120	Special Education

AUTHORITY: Implementing Section 27-26 and Article 29 of the School Code [105 ILCS 5/27-26 and Art. 29], Section 1-182 of the Illinois Vehicle Code [625 ILCS 5/1-182], Sections 6-104(b) and (d) and 6-106.1 of the Illinois Driver Licensing Law [625 ILCS 5/6-104(b) and (d) and 6-106.1], and Sections 11-406, 11-1202, and 11-1414 of the Illinois Rules of the Road [625 ILCS 5/11-406, 11-1202, and 11-1414] and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.6] and Sections 12-807.2 and 12-812(b) of the Illinois Vehicle Equipment Law [625 ILCS 5/12-807.2 and 12-812(b)].

SOURCE: Illinois School Bus Transportation Rules and Regulations, amended April 18, 1974; rules repealed, new rules adopted at 2 Ill. Reg. 37, p. 201, effective September 25, 1978; codified at 7 Ill. Reg. 16507; amended at 13 Ill. Reg. 1532, effective January 23, 1989; emergency amendment at 14 Ill. Reg. 6411, effective April 17, 1990, for a maximum of 150 days; emergency expired September 14, 1990; amended at 14 Ill. Reg. 17954, effective October 18, 1990; amended at 19 Ill. Reg. 16545, effective December 5, 1995; amended at 21 Ill. Reg. 14543, effective October 28, 1997; amended at 22 Ill. Reg. 12533, effective JUL 06 1998.

Section 275.20 Routing

- a) School bus routing is the responsibility of the local school board.
- b) Bus stops shall be planned to maximize ~~provide maximum~~ safety. To the greatest extent possible, school districts shall arrange school bus

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

stops so that school buses will not have to back up and so that crossing arms will not infringe on pedestrian crosswalks or cross streets. If a loading zone is not visible to oncoming and following traffic, the Illinois Department of Transportation must be notified to determine the need to erect appropriate signs.

c) A map or written description which designates each school bus route, the regular stops, railroad grade crossings, and other pertinent information shall be maintained by the local education agency.

d) School districts shall provide free transportation to pupils residing one and one-half miles or more from any school to which the pupils are assigned. ~~The mile and one-half distance for mandatory transportation shall be measured as that distance between the point at which pupils normally exit their property to that point at the pupils' attendance center where school buses normally unload. The distance between roads, streets, or sidewalks.~~

e) School buses are not required to enter private property. However, where a school district chooses to enter private property, it should obtain written permission from the said property owner or the owner's designated representative.

f) Only persons authorized by the school district are allowed to ride school buses.

(Source: Amended at 22 Ill. Reg. 12533, effective JUL 06 1993)

## Section 275.90 Bus Safety Training for Students

a) Section 27-26 of the ~~the~~ School Code requires each public school's ~~school~~ curriculum to include instruction in safe riding practices for all students transported by a school bus in connection with any school activity.

b) Such instruction shall be given at least twice during each school year.

c) Such instruction shall include at least two emergency evacuation drills during each school year.

d) Such instruction shall include instruction on the proper procedures for walking around school bus crossing arms. Students shall be instructed not to step over or under a crossing arm or swing on it.

(Source: Amended at 22 Ill. Reg. 12533, effective JUL 06 1993)

## Section 275.115 School Bus Crossing Arm

a) A school bus driver shall use the school bus crossing arm whenever the bus stops to allow students to enter or leave the bus. The driver shall allow sufficient space for the full extension of the crossing

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

arm without infringing on other vehicles, other obstacles, the pedestrian crosswalk, or a cross street. However, a driver may omit using the crossing arm at school loading areas where school buses are parked bumper to bumper or when extending the crossing arm would impede pedestrians' crossing, extend into the adjacent cross street, or collide with another object or vehicle.

b) Each school bus driver shall keep a log of instances when he or she elects not to activate the crossing arm when its use is required, indicating for each instance the time, the location, and the reason for the decision not to activate it.

1) Reports of such instances shall be filed with the school district, which shall use this information in evaluating school bus routes and pickup and dropoff points. Districts shall retain these records in a manner consistent with their retention policies applicable to other records.

2) Districts shall conduct such investigation as may be needed to determine whether a bus stop should be relocated due to an obstruction or other situation which causes the crossing arm not to be used.

c) A school bus shall not be used if its crossing arm is found to be inoperable during the pre-trip inspection, or if the crossing arm has malfunctioned and has not yet been repaired.

d) If a crossing arm malfunctions while the school bus is carrying students, the driver shall note the stop where the malfunction first occurs, continue on the route, and document all stops where the crossing arm fails to operate. School districts may establish policies requiring more stringent recordkeeping or other procedures when this occurs.

(Source: Added at 22 Ill. Reg. 12533, effective JUL 06 1993)

STATE BOARD OF EDUCATION  
NOTICE OF ADOPTED RULES

projected enrollment growth. Subsection (c)(1) has been amplified by the addition of subsections (A) and (B).

A new subsection (4) has been added to Section 151.50(d) to establish utilization factors for use in calculating available capacity.

An entire new Section 151.55 (Needed Capacity for Unit Districts) has been added.

Section 151.70(e)(3) has been modified to express more limited requirements regarding the content of debt service grant applications.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these rules replace emergency rules currently in effect? Yes

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rules: This Part implements the School Construction Law [105 ILCS 230/5], which makes funding available for school construction grant projects and debt service grants to school districts. Under this program, the State Board of Education must adopt standards under which to issue grant entitlements; determine the order of priority for school construction project grants to be made by the Capital Development Board in the event that insufficient funds are available to fund all eligible projects; and make grants to school districts for debt service on approved school construction bonds. These rules set forth the basis on which entitlements and priorities will be established and describe the application process involved.

16) Information and questions regarding these adopted rules shall be directed to:

Nona Myers  
Illinois State Board of Education  
100 North First Street  
Springfield, Illinois 62777-0001  
(217) 785-8779

The full text of the adopted rules begins on the next page:

STATE BOARD OF EDUCATION  
NOTICE OF ADOPTED RULES

1) Heading of the Part: School Construction Program.

2) Code Citation: 23 Ill. Adm. Code 151

<u>Section Number:</u>	<u>Adopted Action:</u>
151.10	New Section
151.20	New Section
151.30	New Section
151.35	New Section
151.40	New Section
151.50	New Section
151.55	New Section
151.60	New Section
151.70	New Section

4) Statutory Authority: 105 ILCS 230/5.

5) Effective Date of Rules: July 6, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rule contain incorporations by reference? The rules do not contain an incorporation by reference under Section 5-75 of the Illinois Administrative Procedure Act.

8) Date Filed in Agency's Principal Office: June 25, 1998.

9) Notice of Proposal Published in Illinois Register:

January 30, 1998; 22 Ill. Reg. 2485.

10) Has JCAR issued a Statement of Objections to these rule(s)? No

11) Difference(s) between proposal and final version:

Section 151.20(b) has been deleted from the final version, eliminating the project size threshold. The text of subsection (a) has been combined with the Section's introductory paragraph.

A new Section 151.35 (Application for School Construction Project Grant Entitlement - Districts With A Population Exceeding 500,000) has been added to streamline certain requirements.

Section 151.50(a)(2) has been changed to make clear the circumstances under which priority ranking of construction grant applications will take place.

Section 151.50(c)(1) has been changed to include consideration of



## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED RULES

## TITLE 23: EDUCATION AND CULTURAL RESOURCES

## SUBTITLE A: EDUCATION

## CHAPTER I: STATE BOARD OF EDUCATION

## SUBCHAPTER C: FINANCE

## PART 151

## SCHOOL CONSTRUCTION PROGRAM

Section	Purpose	Grant
151.10	Eligible Applicants	
151.20	Application for School Construction Project Grant Entitlement	
151.30	Application for School Construction Project Entitlement	
151.35	Entitlement - Districts With A Population Exceeding 500,000	
151.40	Award of Construction Project Grant Entitlement	
151.50	Priority Ranking of Construction Grant Entitlements	
151.55	Needed Capacity for Unit Districts	
151.60	Grant Index	
151.70	Debt Service Grants	

**AUTHORITY:** Implementing the School Construction Law [105 ILCS 230/5] and authorized by Section 5-55 of that Law.

**SOURCE:** Emergency rules adopted at 22 Ill. Reg. 2616, effective January 16, 1998, for a maximum of 150 days; emergency rules modified in response to JCAR objection at 22 Ill. Reg. 4500; emergency rules adopted at 22 Ill. Reg. 6238, effective March 24, 1998, for a maximum of 150 days; emergency rules modified in response to JCAR objection at 22 Ill. Reg. 7703; adopted at 22 Ill. Reg. 12605, effective JUL 06 1998.

**Section 151.10 Purpose**

This Part implements the School Construction Law [105 ILCS 230/5], which requires that the State Board of Education:

- adopt standards under which the State Board will issue grant entitlements to school districts for school construction project grants to be made by the Capital Development Board;
- determine the order of priority for school construction project grants to be made by the Capital Development Board; and
- make grants to school districts for debt service on approved school construction bonds.

**Section 151.20 Eligible Applicants**

School districts that meet the requirements of the School Construction Law and this Part are eligible to apply for school construction project grant entitlements and debt service grants. A district's eligibility for a school

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED RULES

construction project grant under the minimum enrollment requirements of Section 5-25(a) of the School Construction Law shall be determined using the district's enrollment in prekindergarten through grade 12 as shown on the district's most recent Fall Enrollment/Housing Report.

**Section 151.30 Application for School Construction Project Grant Entitlement**

- A school district seeking a school construction project grant entitlement shall submit an application that includes a District Facilities Plan. A district shall annually update its application in order to establish eligibility for a construction grant.
- Each application for a grant for Fiscal Year 1998 must be received in the Springfield office of the State Board of Education by February 6, 1998. Applications shall be addressed as follows:

Illinois State Board of Education  
School Construction Program  
100 North First Street  
Springfield, Illinois 62777-0001

- For subsequent fiscal years, applications or updates must be received at the address shown in subsection (b) of this Section by April 1 preceding the beginning of the fiscal year in question. Each application or update must include the Capital Development Board's program statement as defined in 71 Ill. Adm. Code 40.
- An application that is incomplete will be returned and will not be processed until it is complete. An application must be complete by the applicable filing deadline in order to be considered. All information contained in the application shall be subject to verification and correction by the State Board of Education and the Capital Development Board by means including on-site inspection and review of documents.
- Each application shall include the following information:
  - A narrative description of the present educational program of the district and anticipated changes in the educational program over the next five years, including:
    - the number of schools currently operated by the district;
    - the configuration of the district's schools by grade level;
    - the basis upon which students are assigned to the district's schools; and
    - the nature and estimated impact of any changes in these factors over the next five years.
  - A description of the present and projected financial position of the district, including but not limited to the availability of current revenue, fund balances, the amount of general obligation debt of the district, and the amount of unused bonding power. This requirement may be met by attaching or, if already on file with the State Board, incorporating by reference:

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED RULES

- A) a copy of the district's basic financial statements (i.e., Statement of Revenues Received/Revenues, Expenditures Disbursed/Expenditures, Other Financing Sources (Uses), and Changes in Fund Balances) from the district's Annual Financial Report for the fiscal year ending June 30 immediately preceding the fiscal year in which the application or update is submitted;
- B) a copy of Part III (Budget Summary) and Part IV (Summary of Cash Transactions) from the School District Budget Form for the fiscal year in which the application or update is submitted; and
- C) a statement showing the amount of the district's unused bonding power as determined under Article 19 of the School Code [105 ILCS 5/Art. 19].
- 3) A description of the district's maintenance plan and schedule, including but not limited to:
- A) the maximum authorized operations and maintenance tax rate of the district;
  - B) the rate at which the operations and maintenance taxes were last extended;
  - C) the amount of operations and maintenance expenditures for the last fiscal year;
  - D) a statement assuring that new, renovated, and existing facilities are being or will be properly maintained; and
  - E) a brief explanation of how the district intends to maintain new, renovated, and existing facilities.
- 4) Facility inventory information, including:
- A) a listing of each parcel of land, building, building addition, or other structure owned or used by the district to house its operations or held by the district for investment or revenue-producing purposes;
  - B) for each parcel of land, building, building addition, or other structure, a listing of the following information, as applicable:
    - i) the facility type;
    - ii) the ownership class;
    - iii) an indication of whether the structure is a main building or a building addition;
    - iv) the functional age of the building or addition as determined under Section 151.50(d)(2) of this Part;
    - v) the enrollment capacity as determined pursuant to the standards specified in Section 151.50(d) of this Part;
    - vi) the type of school housed in the building or building addition;
    - vii) the number of students currently housed in the facility;
    - viii) the number of inadequately housed students currently housed in the facility as determined under Section

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED RULES

- 151.50(c) and (d) of this Part;
- ix) an indication of the district's plans for the facility within the next five years; and
  - x) an indication of which planned activities are the subject of a request for a school construction project grant.

### Section 151.35 Application for School Construction Project Grant Entitlement - Districts With A Population Exceeding 500,000

A school district with a population exceeding 500,000 shall apply for a school construction project grant entitlement by submitting an application in accordance with Section 151.30 as modified by this Section.

- a) An application for a grant entitlement for Fiscal Year 1998 must be received by April 1, 1998.
- b) In lieu of the facility inventory information required by Section 151.30(e)(4) of this Part, each school or project for which grant funds are being sought shall be identified in the District Facilities Plan, including the following information as applicable:
  - 1) the facility type;
  - 2) the ownership class;
  - 3) an indication of whether the structure is a main building or a building addition;
  - 4) the type of school housed in the building or building addition;
  - 5) the number of students currently housed in the facility;
  - 6) an indication of the district's plans for the facility within the next five years; and
  - 7) an indication of which planned activities are the subject of a request for a school construction grant.

### Section 151.40 Award of Construction Project Grant Entitlement

- a) A district that submits a complete and accurate application demonstrating that the district needs a school construction project or projects based on inadequate housing of students shall be awarded a construction project grant entitlement by the State Superintendent of Education for the qualifying project(s).
- b) Such an entitlement qualifies the district for a school construction project grant from the Capital Development Board but does not guarantee receipt of such a grant.
- c) The award of construction project grants by the Capital Development Board depends upon receipt of an appropriation for each fiscal year, the priority ranking of the district's project(s) as established pursuant to Section 151.50 of this Part, and the district's compliance with all other requirements of the School Construction Law.

### Section 151.50 Priority Ranking of Construction Grant Entitlements

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED RULES

Priority ranking of construction grant entitlements shall be done if the appropriation for any fiscal year is insufficient to fund grants for all approved grant entitlements. In this case, districts holding construction grant entitlements shall be eligible for construction grants to be awarded by the Capital Development Board in order of the priority ranking described in this Section.

a) Districts holding grant entitlements shall be eligible for grant awards in the order of:

- 1) the six levels of priority described in Section 5-30 of the School Construction Law; and
- 2) the district's ranking within its level of priority, determined according to subsections (b) through (d) of this Section.

b) A district's ranking within a level of priority shall be determined by multiplying the district's needed capacity as determined under subsection (c) of this Section by the ratio of the district's needed capacity to the district's enrollment as recorded on the district's most recent Fall Enrollment/Housing Report. The resulting figure shall constitute the district's ranking, with the largest figure having the highest ranking.

c) Needed Capacity

- 1) For each priority other than priority five, the district's needed capacity shall be calculated by subtracting its currently available capacity as determined under subsection (d) of this Section from its current enrollment or its projected enrollment, whichever is greater.

A) Projected enrollment shall be calculated by multiplying the district's current enrollment by the ratio of the district's current enrollment to the district's enrollment two years before.

B) For purposes of calculating needed capacity, projected enrollment shall not include any increase in enrollment attributable to a change in the district's boundaries.

- 2) For priority five, the district's needed capacity shall be the number of qualified individuals with disabilities who require a school construction project.

d) Determination of Available Capacity

- 1) The enrollment capacity of each room or space currently subject to occupancy by students for instructional purposes in a district-owned, permanent building, or in a building leased by the district if the lease is at least ten years from expiration, shall be determined by dividing the net floor area (in square feet) of such room or space by the appropriate loading factor, as follows:

Type of Room or Space	Loading Factor
Prekindergarten Classroom	40
Kindergarten Classroom	40

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED RULES

Elementary General Classroom	35
Elementary Art Classroom	40
Elementary Music Classroom	30
Elementary Computer Classroom	35
Middle School General Classroom	35
Middle School Art Classroom	40
Middle School Family and Consumer Sciences Classroom	50
Middle School Music Classroom	25
Middle School Computer Classroom	40
Middle School Science Laboratory	40
Middle School Science	
Laboratory/Classroom	50
Middle School Industrial Technology Laboratory/Shop Not Classified Elsewhere	40
High School General Classroom	30
High School Art Classroom	35
High School Music Classroom	25
High School Computer Classroom	40
High School Family and Consumer Sciences Classroom	60
High School Science Laboratory	35
High School Industrial Technology Laboratory/Shop	75
High School Laboratory Not Classified Elsewhere	35
Special Education Classroom	50

- 2) Buildings and additions with a functional age over one hundred years old shall be assigned an enrollment capacity of zero. The functional age of a building and each of its additions shall be individually determined by multiplying its actual age by one of the following condition factors, to be determined using the Building Condition Evaluation Form supplied by the State Board of Education:

Condition of Building or Addition	Condition Factor
Excellent	0.2
Satisfactory	0.4
Substandard	1.0
Poor	1.5
Very Poor	2.0



## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED RULES

- 3) As used in this subsection (d), "permanent building" means a building mounted on a slab or a permanent foundation. A permanent foundation is a closed-perimeter formation consisting of materials such as concrete, mortared concrete block, or mortared brick extending into the ground below the frost line which may include but not be limited to cellars, basements, or crawlspaces but does not include the sole use of piers.
- 4) Available capacity shall be calculated by multiplying enrollment capacity as determined in subsections (d)(1) through (d)(3) of this Section by the following utilization factors:
- |                                  |      |
|----------------------------------|------|
| A) elementary schools            | 0.9  |
| B) middle or junior high schools | 0.85 |
| C) high schools                  | 0.8  |
- e) A new order of priority ranking shall be established among the applicants for each fiscal year. If a district is not awarded a construction grant in a fiscal year for which it has received an entitlement, the district must update its application to establish its priority ranking for the following fiscal year.

**Section 151.55 Needed Capacity for Unit Districts**

For unit districts, needed capacity under Section 151.50(c) of this Part shall be calculated separately for elementary grades (pre-kindergarten through eight) and secondary grades (nine through twelve), with a needed capacity that is a negative number being treated as zero. In making these calculations, available capacity for a building that contains both elementary and secondary grades shall be considered either elementary or secondary capacity, depending upon whether a majority of the building's students are elementary or secondary students. The district's needed capacity shall be the sum of the elementary and secondary needed capacities.

**Section 151.60 Grant Index**

- a) The amount of a school construction project grant or debt service grant shall be determined by using the district's grant index and the formulas given in Sections 5-5, 5-35(a), and 5-45 of the School Construction Law.
- b) Separate grant indexes shall be calculated for elementary districts, high school districts, and unit districts.
- c) The equalized assessed valuation and average daily attendance used in calculating a district's grant index shall be taken from the district's general state aid claim filed in the fiscal year in which the grant is made. The average daily attendance to be used shall be the district's best three months average daily attendance.

**Section 151.70 Debt Service Grants**

- a) A school district shall apply for a debt service grant entitlement and

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED RULES

award by submitting an application that includes a District Facilities Plan.

- b) Each application for a debt service grant for Fiscal Year 1998 must be received in the Springfield office of the State Board of Education by April 1, 1998. Applications shall be addressed as follows:

Illinois State Board of Education  
 School Construction Program  
 100 North First Street  
 Springfield, Illinois 62777-0001

- c) For Fiscal Year 1999, eligibility for a debt service grant shall be contingent upon the State Board's receipt of an application, addressed as shown in subsection (b) of this Section, by April 15, 1999.
- d) An application that is incomplete will be returned and will not be processed until it is complete. An application must be complete by the applicable filing deadline in order to be considered. All information contained in the application shall be subject to verification and correction by the State Board of Education.
- e) Each application shall include the following information:
- 1) The date of the referendum for approved school construction bonds as defined in Section 5-5 of the School Construction Law;
  - 2) A copy of the ballot used at the referendum;
  - 3) A District Facilities Plan that complies with the requirements of Section 151.30(e)(1) through (e)(3) of this Part, unless the district has an approved District Facilities Plan on file with the State Board of Education as evidenced by receipt of a construction grant entitlement, in which case the plan may be incorporated into the application by reference;
  - 4) A copy of the board resolution issuing the approved school construction bonds and showing the principal amount sold and the date of sale; and
  - 5) A statement of assurance that the debt service grant funds shall be used only to retire principal of approved school construction bonds, restructure the debt service on such bonds, or abate the property taxes levied for the district's bond and interest fund by an amount identical to the amount of the debt service grant.
- f) The State Board of Education shall notify districts that meet the requirements of the School Construction Law and this Part of the amount of their grant awards and shall make grant payments through vouchers submitted to the Comptroller.
- g) The State Board of Education will verify that debt service grant funds have been expended for authorized purposes through review of districts' Annual Financial Reports.

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED REPEALER

1) Heading of the Part: Sprinkler Systems

2) Code Citation: 23 Ill. Adm. Code 170

3) Section Number: Adopted Action:

170.10 Repeal

170.20 Repeal

170.30 Repeal

170.40 Repeal

170.50 Repeal

4) Statutory Authority: 105 ILCS 5/22-23

5) Effective Date of Rules: July 6, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rule contain incorporations by reference? The rules do contain several instances of incorporation by reference under Section 5-75 of the Illinois Administrative Procedure Act.

8) Date Filed in Agency's Principal Office: June 25, 1998

9) Notice of Proposal Published in Illinois Register: March 13, 1998; 22 Ill. Reg. 4588.

10) Has JCAR issued a Statement of Objections to this repealer? No

11) Difference(s) between proposal and final version: None.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were requested by JCAR, and no agreement letter was issued.

13) Will this repealer replace an emergency repealer currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Repealer: The State Board's rules for Sprinkler Systems are being moved into Part 180 (Health/Life Safety Code for Public Schools) and repealed from their current location so that all related requirements can be found in one set of rules. At the same time, the sprinkler rules are being revised to reflect changes made by P.A. 90-566, which removed the State Superintendent from the approval process for sprinkler plans and exempted certain spaces from the requirement for sprinklers in favor of automated fire detection systems.

16) Information and questions regarding this adopted repealer shall be

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED REPEALER

directed to:

Name: Nona Myers

Address: Illinois State Board of Education

100 North First Street

Springfield, Illinois 62777-0001

Telephone: (217) 785-8779

DEPARTMENT OF FINANCIAL INSTITUTIONS  
NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Financial Planning & Management Service Act
- 2) Code Citation: 38 Ill. Adm. Code 140
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
140.10	Amended
140.20	Amended
140.30	Amended
140.40	Amended
140.50	Amended
140.60	Amended
140.70	Amended
140.80	Amended
140.90	Amended
140.100	Amended
140.110	Amended
140.120	New
140.130	New
- 4) Statutory Authority: 205 ILCS 665/15
- 5) Effective Date of Rule(s) (Amendments, Repealer): June 15, 1998
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rule (amendment, repealer) contain incorporations by reference?  
No
- 8) Date Filed in Agency's Principal Office: June 8, 1998
- 9) Notice(s) of Proposal Published in Illinois Register: February 13, 1998,  
22 Ill. Reg. 3300
- 10) Has JCAR issued a Statement of Objections to this (these) rules? No
- 11) Difference(s) between proposal and final version: The minimum qualifications of a hearing officer are included and the basis of disqualifying the hearing officer.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rule (amendments, repealer) replace and emergency rule (amendment, repealer) currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rule(s) (Amendments, Repealer): Rules were

DEPARTMENT OF FINANCIAL INSTITUTIONS  
NOTICE OF ADOPTED RULES

- re-written for a new statute.
- 16) Information and questions regarding this adopted rule (amendment, repealer) begins on the next page:  
  
M. Rose Kelly  
100 W. Randolph  
15-700  
Chicago, IL 60601  
312-814-2008

The full text of the Adopted Rule(s) (Amendments) begins on the next page:



## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF ADOPTED RULES

TITLE 38: FINANCIAL INSTITUTIONS  
CHAPTER I: DEPARTMENT OF FINANCIAL INSTITUTIONS

## PART 140

DEBT MANAGEMENT FINANCIAL PLANNING AND MANAGEMENT SERVICE ACT

## Section

- 140.10 Office Records
- 140.20 Bank Account
- 140.30 Dual Business
- 140.40 License
- 140.50 General Operations
- 140.60 Fees
- 140.70 Prohibited Activities
- 140.80 Advertising
- 140.90 Availability of Act and Rules and Regulations
- 140.100 Examination
- 140.110 Revocation - Suspension - Surrender
- 140.120 Hearing Procedures
- 140.130 Proof of Payment

AUTHORITY: Implementing and authorized by the Debt Management Service Act [205 ILCS 665].

SOURCE: Filed February 14, 1972; old rules repealed, new rules adopted at 3 Ill. Reg. 27, p. 81, effective July 2, 1979; codified at 7 Ill. Reg. 13264; amended at 9 Ill. Reg. 1368, effective January 17, 1985; emergency amendment at 22 Ill. Reg. 1528, effective January 2, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 12550, effective JUN 15 1998.

## Section 140.10 Office Records

## a) Required Files

- 1) Every licensee shall keep the following records or their equivalent in accord with generally accepted accounting principles as approved by the Department:
  - A) Client File Customer's Register
  - B) Client Activity Record Account-Cards
  - C) Payment Detail Report Cash-Book
  - B) ~~File-of-Original-Papers~~
  - D) ~~Index System~~
- 2) Such records must be kept at the licensed office as the record of business conducted as a financial planning and management licensee. If a computerized system is in use, licensee shall maintain a permanent file of back-up computer media for the end of each month.
- 3) All books and records shall be kept current and available for examination by the Department of Financial Institutions.

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF ADOPTED RULES

## b) Client File Customer's Register

The Client file customer's register shall contain the following: original entry and be a permanent record, and shall show the account number, name, address, date of contract, total indebtedness, monthly payment, and fee charged and term of contract; the original contract, a listing of total debtor income, a list of creditors including the balance owed to each and monthly payments due and a copy of the agreed-upon debt management plan.

## c) Client Activity Record Account-Cards

An individual account card shall be maintained for each customer. Such account card shall show the name and address of the customer, account number, date of contract, total indebtedness, terms of payments, and the fee charged. The card shall also indicate the distribution of the prorated fee.

1) A file shall be kept containing the paid or cancelled account cards for a period of two (2) years from the paid or cancelled date showing the disbursements in full and the final amount of fee collected. Adding machine tapes verifying the disbursements, including the fee against total receipts shall be attached to each card, but shall not obscure entries.

2) If a contract is cancelled by a licensee or customer and a fee is claimed but not paid, the account card shall show the reason for cancellation and the amount of the fees claimed.

3) The entries on the card for payments received shall correspond with the receipts given to the customer and shall also show the disbursements made to creditors. All entries shall be made in ink.

4) No erasures whatsoever may be made on the card. In case of error, a line should be drawn in ink through the improper entry and the correct entry made on the following line. No entries shall be masked, covered or rendered illegible.

5) When legal action is taken to collect an unpaid fee, the account card shall indicate:

- i) Date of Judgement
  - ii) Amount of Judgement
  - iii) Name and place of court
  - iv) Court costs
- B) If court costs are included in the amount claimed, receipts for court costs advanced and a statement from the attorney of record (if there is one) shall be kept in file of original papers.
- C) A separate file of all litigation accounts to be known as the "trouble file" shall be maintained in the office of the licensee.

The Client Activity Record shall contain the original entry and be a permanent record, and shall show the debtor's account number, name, address, date of contract, total indebtedness, monthly receipts, any

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF ADOPTED RULES

fees charged, amounts disbursed to creditors and the estimated term of the contract to satisfy the amount owed.

1) If a contract is cancelled by a licensee or debtor and a fee is claimed but not paid, the debtor activity record shall show the reason for cancellation and the amount of any fee claimed to be owed.

2) If legal action is taken to collect an unpaid fee, the client activity record shall include a copy of the judgment or action taken.

3) A separate file of all litigation accounts shall be maintained in the office of the licensee.

## d) Payment Detail Report Cash-Book

1) All receipts and disbursement of any amount shall be entered in the cash book on the date of receipt or disbursement. The cash book shall show the monthly totals of all receipts, disbursements and undischarged or reserve funds.

2) The cash book shall be a permanent record of all details of income and disbursements including all entries to individuals accounts of customers.

An individual Payment Detail Report shall be maintained for each debtor, including the account number, name and address, date of contract, total indebtedness, terms of payment and any fees charged. The report shall also show the monthly total of all receipts, disbursements, undischarged or reserve funds and the distribution of any prorated fee.

1) A file shall be kept containing the paid or canceled payment Detail Reports for a period of 5 years, showing the receipts and disbursement in full and the total amount of fees collected. In a non-computerized system, adding machine tapes verifying the receipts against all disbursements, including total fees, shall be attached to each client file.

2) The entries on the Payment Detail Report shall correspond with the receipt of periodic statements given to the debtor and shall reflect the disbursement made to creditors showing the net and gross amount.

3) In a non-computerized system, all entries shall be made in ink and no erasures whatsoever may be made on the report. In case of error, a line should be drawn in ink through the improper entry and the correct entry made on the following line. No entries shall be masked, covered or rendered illegible.

## e) File of Original Papers

The file of original papers for each account shall contain the following: the contract; a list of creditors and amounts owed to each; evidence of acceptance of the plan by a majority of creditors in number and amount.

## e)f) Index System

An alphabetical index system shall be kept indicating name and address of clients, account number, date of contract and total indebtedness.

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF ADOPTED RULES

g) All books and records required by the Rules and Regulations shall at all times be kept up to date and available for examination by representatives of the Department of Financial Institutions.

(Source: Amended at 22 Ill. Reg. 12550, effective JUN 15 1998)

## Section 140.20 Bank Account

a) A separate trust bank account shall be maintained for the purpose of depositing customer's receipts and making disbursements to creditors or transferring earned fees to the general account. Funds shall be deposited within one business day after receipt promptly.

b) Trust account bank statements and cancelled checks shall be retained at the office of the licensee for a period of 3 two-(2) years from the date the account was paid or cancelled.

c) Copies of the original trust account bank statement and canceled checks, either in hard copy, microfilm, microfiche, or by other electronic means, shall be kept at the office of the licensee, at licensee's headquarters, or at an off-site storage facility for a period of 5 years.

(Source: Amended at 22 Ill. Reg. 12550, effective JUN 15 1998)

## Section 140.30 Dual Business

No licensee shall transact any other business than that provided for by the Debt Financial Planning and Management Service Act within the office, room or place of business occupied by the licensee, except as may be authorized in writing by the Director upon his finding that the character of such other business is such that the granting of such authority will not facilitate evasions of the Act or the Rules.

(Source: Amended at 22 Ill. Reg. 12550, effective JUN 15 1998)

## Section 140.40 License

When more than one license is issued to an individual, partnership or corporation, proof must be shown that each branch will be managed by an experienced person of good character and general fitness. A resume of past experience and former employers shall be submitted with the application for a license.

a) For purposes of determining an applicant's qualifications for a license, the Department shall find an applicant financially responsible if it has a positive net worth. Net worth means total



## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF ADOPTED RULES

assets minus total liabilities.

b) An applicant shall possess at least 6 months of relevant business experience.

c) In order to determine the applicant's general fitness and character, the Director may require applicants to submit at least 2 letters of recommendation from persons familiar with the applicant or the applicant's business.

d) For all applications due on January 1, 1998, the applicant may submit the application for license, the required \$25,000 bond, deposit in cash, or U.S. Government Bonds and other required information to the Director on, or before, March 1, 1998. Any applicant applying for a license after March 1, 1998 and thereafter shall submit the bond, the application for license and all required information at the time of application for a license.

(Source: Amended at 22 Ill. Reg. 12550, effective JUN 15 1998)

## Section 140.50 General Operations

a) The licensee shall explain clearly and distinctly to each customer exactly the services to be rendered and the fees to be paid. The customer shall be furnished with a clear statement of the charges, terms, list of creditors and amount to be paid to each.

b) A plan of payment shall be considered feasible and practical if it is devised in writing to allow a regular accumulation of funds for distribution to creditors after determination of the customer's regular income, fixed and operating expenses, and such provision for emergencies as may be mutually agreed upon. If, after analyzing the debtor's total income and expenses, it is determined that a payment plan should be developed, the licensee shall create a Debt Management Plan (DMP) that is considered feasible and practical to allow a payment of funds by the debtor for distribution to debtor's creditors as may be mutually agreed upon.

1) The licensee shall seek to obtain the consent of a majority of the creditors to accept the terms of the payment plan. Creditor acceptance may be determined by acceptance of a payment without written objection.

2) The debtor has the right to cancel the Debt Management Plan at any time by notifying the licensee, in writing, of debtor's desire to discontinue.

3) The cancellation will take effect on the first day of the month following receipt of the cancellation notice from the debtor.

c) When a contract is paid-in-full or satisfied, a statement shall be issued promptly to the debtor showing that the obligation has been satisfied. Licensee shall retain a copy of the contract marked "Paid" or "Satisfied" in the client file.

1) If the debtor terminates payment to the licensee for a period

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF ADOPTED RULES

exceeding 30 days, the licensee shall not consider pro rata fees as having been earned beyond 30 days following the next monthly contract date.

2) The licensee is prohibited from charging a penalty for cancellation by either the debtor or the licensee except as provided in Section 12 of the Act.

1) The licensee shall actively seek to obtain the consent of a majority of the creditors by number and amount. The creditor acceptance may be determined by acceptance of a payment without written objection.

2) Failure to obtain the consent as stated above of a majority of the creditors in number and amount within sixty (60) days of the contract execution shall entitle the debtor to (prior to ratification of consent of a majority of the creditors if such is received after 60 days) cancel the contract at any time within one hundred and twenty (120) days of said contract date. Failure of licensee to actually obtain said consent shall relieve debtor of liability for payment of any cancellation fees herein authorized.

d) All paid-in-full contracts on which the fee has been collected or waived must be returned to the customer promptly, showing that the obligation has been satisfied. License may retain a copy of the original contract as returned to the debtor marking "Paid" or "Satisfied".

e) 1) If the contract debtor terminates payments to the licensee for a period exceeding thirty (30) days the licensee shall not consider pro rata fees as having been earned beyond thirty (30) days following the next monthly contract anniversary date. If the debtor resumes payments to the licensee within one hundred twenty (120) days following the termination, the licensee may reinstate the contract and consider pro rata monthly fees to be earned commencing with the closest monthly contract anniversary date. Nothing in the above wording is intended to alter the fees due the licensee in the event of prepayment or cancellation by either the debtor or the licensee as provided in Section 12 of the Act.

d) f) Every contract between a licensee and debtor shall:

1) List every debt to be prorated, with the creditor's name, and disclose the total of all such debts;

2) Provide payments reasonably within the ability of the debtor to pay in precise terms;

2) 3) Disclose in precise terms the rate and amount of the licensee's charge;

3) 4) Disclose the approximate number and amount of installments required to pay the debts in full;

4) 5) Disclose the name and address of the licensee and of the debtor;

6) Be drawn for the term necessary to liquidate the debtor's



## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF ADOPTED RULES

obligations:

- 5) ~~7~~ Contain such other provisions or disclosures as the Director of Department of Financial Institutions shall determine is necessary for the protection of the debtor and the proper conduct of business by a licensee;
- 6) Disclose the right of the debtor to cancel at any time;
- 7) Inform the debtor of any relationship that exists between the licensee and any creditor.
- 8) ~~9~~ All contracts shall must be originated executed at the office of the licensee or its agent.
- 9) ~~10~~ When adjustments are needed to change the indebtedness listed in the contract, the licensee may execute a new contract using the revised figures or use a rider form executed in accordance with instructions provided in the rider. A cancellation charge shall not be made in using either alternative.
- 10) ~~11~~ All legal documents and other forms that a debtor shall be required to sign shall be filed with the Director of the Department of Financial Institutions prior to use.
- 11) ~~12~~ A licensee shall deliver a copy of any contract, or agreement, or Debt Management Plan between the licensee and the debtor to the debtor immediately after the debtor executes it, and the debtor's copy shall be executed by the licensee.
- 12) ~~13~~ A calendar month is the period from the given date in one month to the same numbered date in the following month and if there is no same numbered date in the following month, to the last date in the following month. Not more than one (1) month's months service fee may be considered earned in any calendar month. A calendar month commences on the anniversary date of the contract.
- 13) ~~14~~ A Unless paid by check or money order, a licensee shall deliver a receipt to the debtor for each cash payment, within five (5) days after receipt of a payment.
- 14) ~~15~~ The licensee shall make distribution remittances to the debtor's creditors within thirty (30) days after initial receipt of funds, and thereafter distributions remittances shall be made to creditors within 30 fifteen (15) days after of receipt, less fees and costs, unless the reasonable payment of one 10 or more of the debtor's obligations requires that such funds be held for a longer period to accumulate a certain sum, but in any case not to exceed an additional thirty (30) days, or as authorized by the contract.
- 15) ~~16~~ At least once each 3 six (6) months, the licensee shall render an accounting to the debtors which shall itemize the total amount received from the debtor, the total amount paid to each creditor, the total amount which any creditor has agreed to accept as payment in full on any debt owed him by the debtor, the amount of charges deducted, and any amounts held in reserve. A licensee shall render such an accounting account to a debtor within 5 seven (7) days after receipt of a written demand.

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF ADOPTED RULES

(Source: Amended at 22 Ill. Reg. 12550, effective JUN 15 1998)

## Section 140.60 Fees

- a) A printed schedule of fees charged by a licensee shall be given to the debtor prior to the initial counseling session. posted in a conspicuous place in the licensee's place of business. A licensee shall not charge fees in excess of the posted fees.
- b) Utility bills, rent, mortgages and other cyclical bills may not be included in the schedule of debts on which service charges are computed, but may be included in a plan of distribution to creditors as a management factor. Charges not to exceed 5% of monies handed for cyclical bills may be imposed. A licensee shall not charge any fee in excess of those provided in Section 12 of the Act.

(Source: Amended at 22 Ill. Reg. 12550, effective JUN 15 1998)

## Section 140.70 Prohibited Activities

- a) A licensee shall not take:
- 1) Any contract, promise to pay, or other instrument which has any blank spaces when signed by a debtor;
  - 2) Any negotiable instrument for the licensee's charges;
  - 3) Any note, wage assignment, real estate or chattel mortgage, or other security to secure the licensee's charges;
  - 4) Any confession of judgement or power of attorney to confess judgement against the debtor or to appear for the debtor in a judicial proceedings;
  - 5) Any real or personal property as security for payment of a fee;
  - 6) Concurrent with the signing of the contract or as part of the application for the contract a release of any obligation to be performed on the part of the licensee.
- b) A licensee shall not take an appointment as attorney in fact or power of attorney.
- c) Licensees shall not take any legal instrument from the debtor other than the service contract and authorized rider.
- d) The licensee shall not accept a fee directly, or indirectly, from any person or other entity lending institutions in exchange for the referring referral of potential customers borrowers to lenders.
- e) ~~17~~ No fees shall be paid directly, or indirectly, to an attorney, lending institutions, or any other source for the referral of customers.
- f) ~~18~~ A licensee shall not solicit or require a debtor to purchase, or agree to purchase, any policy of insurance.
- g) ~~19~~ A licensee shall not lend money or extend credit or include in the contract any debts not established prior to the execution of the

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF ADOPTED RULES

contract. Projected-future-employment-figures-are-also-expected-to-be-affected-by-the-act.

1917 No advance of the licensee's funds on the debtor's customer's behalf shall may be made by a licensee to any creditor or to the debtor without the customer's written consent. No advance of funds may be made as a device to extend the scheduled maturity of a contract and thereby increase fee charges to the customer. No interest may be charged on the funds advanced.

(Source: Amended at 22 Ill. Reg. 116.001, effective  
JUN 15 1993)

## Section 140.80 Advertising

a) Advertising shall not be false, misleading or deceptive [205 ILCS 665/13]. ~~The use of payment charts that present the amount or period of payment without detailed analysis of all factors involved is prohibited. No statement shall be permitted that states or implies that no financial problem is too great for the licensee to solve. No statement shall be permitted that states or implies that the licensee will use his own cash to pay the debtor's debtors accounts. All advertisements shall contain the phrase, "we do not lend money".~~

b) Upon specific request by the Department, licensees shall forward to the Director Supervisor of the Consumer-Credit Division the complete text of all advertising copy for which questions have been raised concerning compliance with the Financial Planning and Management Service Act.

c) All advertising shall contain the true name and address of the licensee.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 140.90 Availability of Act and Rules and Regulations

A copy of the Debt Financial-Planning-and Management Service Act and this Part rules-pertaining-to-it shall be kept in each office and branch.

(Source: Amended at 22 Ill. Reg. 12230, effective  
JUN 15 1998)

## Section 140.100 Examination

a) The Director may ~~Department shall~~ make an examination of the office and records of each licensee and shall charge \$100 for each examined day or portion thereof. at least once each year or at any time at the

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF ADOPTED RULES

discretion-of-the-Director;

b) All communications shall be addressed to the Director, Department of Financial Institutions, to any address designated by the Director. ~~160 N-5a-Saller-Chicago-111mns-60662~~ All fees shall be paid to the "Director of Financial Institutions".

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 140.110 Revocation - Suspension - Surrender

at Pursuant to Section 10 of the Act the Director may revoke a particular license with respect to which grounds for revocation exist or extend but not if he is finding that grounds for revocation are of a general application to all or to more than one office of the licensee. He may revoke every license to which such grounds apply.

4  
 1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 220. 221. 222. 223. 224. 225. 226. 227. 228. 229. 230. 231. 232. 233. 234. 235. 236. 237. 238. 239. 240. 241. 242. 243. 244. 245. 246. 247. 248. 249. 250. 251. 252. 253. 254. 255. 256. 257. 258. 259. 260. 261. 262. 263. 264. 265. 266. 267. 268. 269. 270. 271. 272. 273. 274. 275. 276. 277. 278. 279. 280. 281. 282. 283. 284. 285. 286. 287. 288. 289. 290. 291. 292. 293. 294. 295. 296. 297. 298. 299. 300. 301. 302. 303. 304. 305. 306. 307. 308. 309. 310. 311. 312. 313. 314. 315. 316. 317. 318. 319. 320. 321. 322. 323. 324. 325. 326. 327. 328. 329. 330. 331. 332. 333. 334. 335. 336. 337. 338. 339. 340. 341. 342. 343. 344. 345. 346. 347. 348. 349. 350. 351. 352. 353. 354. 355. 356. 357. 358. 359. 360. 361. 362. 363. 364. 365. 366. 367. 368. 369. 370. 371. 372. 373. 374. 375. 376. 377. 378. 379. 380. 381. 382. 383. 384. 385. 386. 387. 388. 389. 390. 391. 392. 393. 394. 395. 396. 397. 398. 399. 400. 401. 402. 403. 404. 405. 406. 407. 408. 409. 410. 411. 412. 413. 414. 415. 416. 417. 418. 419. 420. 421. 422. 423. 424. 425. 426. 427. 428. 429. 430. 431. 432. 433. 434. 435. 436. 437. 438. 439. 440. 441. 442. 443. 444. 445. 446. 447. 448. 449. 450. 451. 452. 453. 454. 455. 456. 457. 458. 459. 460. 461. 462. 463. 464. 465. 466. 467. 468. 469. 470. 471. 472. 473. 474. 475. 476. 477. 478. 479. 480. 481. 482. 483. 484. 485. 486. 487. 488. 489. 490. 491. 492. 493. 494. 495. 496. 497. 498. 499. 500. 501. 502. 503. 504. 505. 506. 507. 508. 509. 510. 511. 512. 513. 514. 515. 516. 517. 518. 519. 520. 521. 522. 523. 524. 525. 526. 527. 528. 529. 530. 531. 532. 533. 534. 535. 536. 537. 538. 539. 540. 541. 542. 543. 544. 545. 546. 547. 548. 549. 550. 551. 552. 553. 554. 555. 556. 557. 558. 559. 560. 561. 562. 563. 564. 565. 566. 567. 568. 569. 570. 571. 572. 573. 574. 575. 576. 577. 578. 579. 580. 581. 582. 583. 584. 585. 586. 587. 588. 589. 590. 591. 592. 593. 594. 595. 596. 597. 598. 599. 600. 601. 602. 603. 604. 605. 606. 607. 608. 609. 610. 611. 612. 613. 614. 615. 616. 617. 618. 619. 620. 621. 622. 623. 624. 625. 626. 627. 628. 629. 630. 631. 632. 633. 634. 635. 636. 637. 638. 639. 640. 641. 642. 643. 644. 645. 646. 647. 648. 649. 650. 651. 652. 653. 654. 655. 656. 657. 658. 659. 660. 661. 662. 663. 664. 665. 666. 667. 668. 669. 670. 671. 672. 673. 674. 675. 676. 677. 678. 679. 680. 681. 682. 683. 684. 685. 686. 687. 688. 689. 690. 691. 692. 693. 694. 695. 696. 697. 698. 699. 700. 701. 702. 703. 704. 705. 706. 707. 708. 709. 710. 711. 712. 713. 714. 715. 716. 717. 718. 719. 720. 721. 722. 723. 724. 725. 726. 727. 728. 729. 730. 731. 732. 733. 734. 735. 736. 737. 738. 739. 740. 741. 742. 743. 744. 745. 746. 747. 748. 749. 750. 751. 752. 753. 754. 755. 756. 757. 758. 759. 760. 761. 762. 763. 764. 765. 766. 767. 768. 769. 770. 771. 772. 773. 774. 775. 776. 777. 778. 779. 780. 781. 782. 783. 784. 785. 786. 787. 788. 789. 790. 791. 792. 793. 794. 795. 796. 797. 798. 799. 800. 801. 802. 803. 804. 805. 806. 807. 808. 809. 810. 811. 812. 813. 814. 815. 816. 817. 818. 819. 820. 821. 822. 823. 824. 825. 826. 827. 828. 829. 830. 831. 832. 833. 834. 835. 836. 837. 838. 839

e) A licensee may surrender any license by delivering to the Director written notice that it thereby surrenders such license, but such surrender shall not affect such licensee's civil or criminal liability for acts committed prior to such surrender, or affect the liability on its bond or bonds, or entitle such licensee to a return of any part of the annual license fee.

(Source: Amended at 22 Ill. Reg. 12301, effective \_\_\_\_\_)

## Section 140.120 Hearing Procedures

a) Hearings

After receipt of a written request for a hearing, the Director shall send to the respondent requesting the hearing, by certified mail, at least 10 days prior to the date set for such hearing, a Notice of Hearing. The Notice shall include the date and the time and place of the hearing to review the propriety of any administrative actions made pursuant to the Act.

b) present to the board. The Director may designate, in writing, a Hearing Officer who shall have the minimum qualifications of being licensed to practice law in Illinois. A Hearing Officer may be disqualified based on bias or conflicts of interest. The Hearing Officer shall have the authority to:



## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF ADOPTED RULES

- 2) Determine the order of appearance of all parties;
- 3) Receive all evidence and testimony and rule on its admissibility as well as require the production of any relevant document or witness;
- 4) Rule on objections to evidence;
- 5) Make a written report with recommendations to the Director which shall include findings of fact and conclusions of law. Findings of fact shall be based exclusively on the evidence and on matters officially noticed; and
- 6) Require any party or his attorney to provide proposed findings of fact or conclusions of law for consideration in his report.

## c) General Provisions

- 1) Delivery of notice shall be deemed complete when the Notice is deposited in the U.S. mail.
- 2) A continuance shall be granted for good cause by the Hearing Officer which shall be:
  - A) In writing and signed by the respondent or his attorney and shall state the reasons for the request.
  - B) Delivered to the Hearing Officer at least three days prior to the scheduled hearing.

For the purposes of this subsection (c)(2), good cause shall require the respondent to demonstrate real and compelling need for additional time. It shall include, but not be limited to, illness, service in the armed forces, etc.

- 3) The respondent shall bear any and all costs of the hearing.
- 4) A court reporter will be present and considered as part of the costs of the hearing.

## d) Conduct of Hearings

- 1) The Hearing Officer shall open the hearing by presenting for the record his letter of authorization from the Director.
- 2) The rules of evidence and privilege as applied in civil cases in the circuit courts of this State shall be followed. The Hearing Officer may admit evidence not admissible under such rules if such evidence may be relevant to the case.
- 3) The Hearing Officer may, on his own motion or the motion of one of the parties, take notice of matters of which the circuit courts of this State may take judicial notice. Notice may be taken of generally recognized technical or scientific facts within the Department's specialized knowledge if parties are notified, before or during the hearing, and shall be afforded an opportunity to contest the material so noticed. The burden of opposing any material admitted upon notice shall be upon the party so opposing.
- 4) Failure to attend the hearing shall result in the dismissal of the respondent's petition and an entry of a default against the respondent. Within 30 days from dismissal of the respondent's petition, the respondent may petition the Hearing Officer for reconsideration if the respondent can establish that his failure

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF ADOPTED RULES

to attend was caused by events beyond his control and he exercised due diligence to attend or seek a continuance.

## 5) The record of any hearing shall include:

- A) All pleadings, and evidence received whether admitted or excluded;
  - B) A statement of all matters officially noticed;
  - C) All offers of proof, objections and rulings thereon;
  - D) All proposed findings and exceptions;
  - E) Any decision, opinion, or report by the Hearing Officer;
  - F) Any evidence excluded by the Hearing Officer, even though such evidence is not used in the determination of the decision;
  - G) A proceeding transcript which shall be recorded by such means as to adequately ensure the preservation of the testimony.
- 6) Within 50 days after the hearing or the receipt of all necessary documents, the Hearing Officer shall report to the Director.
  - 7) Within 30 days after receiving the report of the Hearing Officer, the Director shall issue his decision, which shall be served on the respondent by registered or certified mail, return receipt requested. Copies of the Hearing Officer's report to the Director are available upon written request.

## e) Petition to Reconsider

- 1) Within 30 days after receipt of the Director's decision, the respondent may petition the Director for reconsideration based upon a verified petition. An affidavit shall accompany the petition stating that the decision was against the preponderance of the evidence, was contrary to law, or was arbitrary or capricious, or is affected by newly discovered evidence not in existence at the time of the initial hearing or which could not have been discovered using due diligence at that time.

- 2) The Director shall determine within 15 days whether to reconsider the case. If the Director determines, after reading the affidavit, that one or more of the findings listed in subsection (e)(1) exists, a hearing may be held and shall be limited to only those issues raised in the petition to reconsider. If reconsideration is denied, the Director's initial decision shall be the final administrative decision of the Department.

(Source: JUN 15 1988 22 Ill. Reg. 12550, effective

## Section 140.130 Proof of Payment

Upon completion of the contract, the licensee shall mail a statement to the debtor stating that the account has been closed and listing the name and address of each creditor paid in full and names and addresses of any creditors remaining unpaid.



## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF ADOPTED RULES

(Source: Added at 22 Ill. Reg. **12550**, effective  
**JUN 15 1998**)

## SECRETARY OF STATE

## NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Electronic Filing of Documents
- 2) Code Citation: 2 Ill. Adm. Code 570
- 3) Section Number(s): Adopted Action:

|        |     |
|--------|-----|
| 570.10 | New |
| 570.20 | New |
| 570.30 | New |
| 570.40 | New |
| 570.50 | New |
| 570.60 | New |
- 4) Statutory Authority: Implementing Chapter 3 and authorized by Section 15 of the Secretary of State Act (15 ILCS 305/15), as amended by P.A. 89-670.
- 5) Effective Date of Rule: July 1, 1998
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporation by reference? No
- 8) Date filed in Agency's Principal Office: July 1, 1998
- 9) Notice of Proposal Published in Illinois Register: 22 Ill. Reg. 5829
- 10) Has JCAR issued a State of Objections to these amendments? No
- 11) Differences between proposal and final version: Nonsubstantive
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace an emergency rule amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: Clarifies procedures for electronic or facsimile filings with full legal effect. Specifically, how to determine which forms may be filed electronically, duties of filers, payment of fees, and retention of records.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Carol Sudman, Assistant Counsel  
Room 298, Howlett Building  
Springfield, Illinois 62756

SECRETARY OF STATE  
NOTICE OF ADOPTED RULES

217/785-3094

The full text of the Adopted Rules begins on the next page:

SECRETARY OF STATE  
NOTICE OF ADOPTED RULES

TITLE 2: GOVERNMENTAL ORGANIZATION  
SUBTITLE C: CONSTITUTIONAL OFFICERS  
CHAPTER III: SECRETARY OF STATE

PART 570  
ELECTRONIC FILING OF DOCUMENTS

- Section 570.10
- 570.20
- 570.30
- 570.40
- 570.50
- 570.55
- 570.60

Definitions  
Accepted Electronic and Facsimile Documents  
Where to Send Electronic and Facsimile Filings  
Duties of Electronic and Facsimile Filers  
Payment of Fees  
Acceptable Electronic Payment  
Retention of Records

AUTHORITY: Implementing and authorized by Section 15 of the Secretary of State Act [15 ILCS 305/15].

SOURCE: Adopted at 22 Ill. Reg. 12565, effective JUL 01 1998.

Section 570.10 Definitions

"Electronic document" means data transmitted to the Secretary of State through an electronic medium including, but not limited to, disks, tapes, and the internet.

"Facsimile document" means a paper document transmitted to the Secretary of State via facsimile, the signature on which is *prima facie* evidence for all purposes that the document was signed by the person whose signature appears on the facsimile. [15 ILCS 305/15]

"Internet" means a nonproprietary, public computer network.

Section 570.20 Accepted Electronic and Facsimile Documents

Each department within the Office of the Secretary of State has the authority to determine which of its documents may be filed electronically (and the appropriate electronic medium) or by facsimile.

Section 570.30 Where to Send Electronic or Facsimile Filings

Electronic and facsimile documents shall be transmitted to the appropriate department within the Office of the Secretary of State.

Section 570.40 Duties of Electronic and Facsimile Filers

## SECRETARY OF STATE

## NOTICE OF ADOPTED RULES

Electronic and facsimile filers shall ensure that documents are filed in sufficient time to meet statutory deadlines. The receipt date of the electronic or facsimile transmission will constitute the receipt date of the document if it is acknowledged as accepted by the Secretary of State.

**Section 570.50 Payment of Fees**

The filer is responsible for the payment of any fees to the Secretary of State in relation to the electronic or facsimile document. A document required to be accompanied by a fee may not be deemed accepted or filed until payment is received.

**Section 570.55 Acceptable Electronic Payment**

The following electronic payment methods may be used for electronic or facsimile documents requiring the attachment of fees:

- a) Automated Clearing House;
- b) Payment Cards; or
- c) Money Wire.

**Section 570.60 Retention of Records**

Persons who file documents with the Secretary of State via facsimile or electronically shall maintain paper or electronic records for the time periods required by the statute under which the document is filed.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Acquisition, Management and Disposal of Real Property

2) Code Citation: 44 Ill. Adm. Code 5000

3) Section Numbers: Emergency Action:

|          |       |
|----------|-------|
| 5000.120 | Amend |
| 5000.230 | Amend |
| 5000.231 | New   |
| 5000.232 | New   |
| 5000.233 | New   |
| 5000.234 | New   |
| 5000.235 | New   |
| 5000.240 | Amend |
| 5000.250 | Amend |
| 5000.660 | Amend |

4) Statutory Authority: Public Act 90-572 [30 ILCS 500]

5) Effective Date of Amendments: July 1, 1998

6) If this emergency rule is to expire before end of the 150-day period, please specify the date on which it is to expire: Not applicable

7) Date Filed in Agency's Principal Office: July 1, 1998

8) Reason for Emergency: There was not sufficient time to develop proposed rules that could be processed through normal rulemaking and have the rules effective July 1, 1998.

9) A Complete Description of the Subjects and Issues Involved: Amends existing rules to incorporate changes mandated by the Illinois Procurement Code, Public Act 90-572.

The emergency rules are identical to those proposed in 22 Ill. Reg. 8053.

10) Are there any proposed amendments to this Part pending? Yes

| <u>Section Numbers</u> | <u>Proposed Action</u> | <u>Illinois Register Citation</u> |
|------------------------|------------------------|-----------------------------------|
| 5000.120               | Amend                  | 20 Ill. Reg. 8053                 |
| 5000.230               | Amend                  | 20 Ill. Reg. 8053                 |
| 5000.231               | New                    | 20 Ill. Reg. 8053                 |
| 5000.232               | New                    | 20 Ill. Reg. 8053                 |
| 5000.233               | New                    | 20 Ill. Reg. 8053                 |
| 5000.234               | New                    | 20 Ill. Reg. 8053                 |
| 5000.235               | New                    | 20 Ill. Reg. 8053                 |
| 5000.240               | Amend                  | 20 Ill. Reg. 8053                 |
| 5000.250               | Amend                  | 20 Ill. Reg. 8053                 |



DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

5000.660 Amend 20 Ill. Reg. 8053

11) Statement of Statewide Policy Objectives: Places in rule form the RFI procedures currently being used by the Department.

12) Information and questions regarding this amendment shall be directed to:

Stephen W. Seiple  
720 Stratton Office Building  
Springfield IL 62706  
217/782-9669

The full text of the Emergency Rules begins on the next page:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT

SUBTITLE D: PROPERTY MANAGEMENT

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 5000

ACQUISITION, MANAGEMENT AND DISPOSAL OF REAL PROPERTY

SUBPART A: GENERAL

Section  
5000.100 Authority  
5000.110 Policy  
5000.120 Applicability  
EMERGENCY

SUBPART B: LEASED SPACE ACQUISITION POLICY

Section  
5000.200 General Policy and Responsibility  
5000.210 Requests for Space/Agency Responsibilities  
5000.220 Acquisition Authority  
5000.230 General Acquisition Procedures  
EMERGENCY  
5000.231 Acquisition of Leases by RFI  
EMERGENCY  
5000.232 Leases Acquired by Other Methods  
EMERGENCY  
5000.233 Renewal or Extension of Lease in Effect Prior to July 1, 1998  
EMERGENCY  
5000.234 Renewal of Leases Entered into After July 1, 1998  
EMERGENCY  
5000.235 Purchase Options  
EMERGENCY  
5000.240 Lease Administration  
EMERGENCY  
5000.250 Emergency Lease Procurement  
EMERGENCY

SUBPART C: BUILDING STANDARDS

Section  
5000.300 Scope  
5000.310 Area Measurement  
5000.320 Space Planning Assistance  
5000.330 Open Space  
5000.340 Space Allowance and Standards  
5000.350 Office Furnishing

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

5000.360  
5000.370  
5000.380

Handicapped Accessibility  
Vending Facilities/Blind Operators  
Improvements

## SUBPART D: ASSIGNMENT AND MANAGEMENT OF SPACE

Section  
5000.400  
5000.410  
5000.420  
5000.430  
5000.440  
5000.450

Assignment and Management by DCMS  
Assignment by Agencies  
Reviews and Appeal of Space Assignment Actions  
Services Provided  
Alterations  
Local Requirements

SUBPART E: UTILIZATION OF SPACE  
(STATE-OWNED AND LEASED PROPERTIES)

Section  
5000.500  
5000.510  
5000.520  
5000.530

Space Inspections and Surveys  
Responsibility of Agencies  
Release of Space Not Fully Utilized  
Notice to DCMS of Relinquishment or Termination of Space

## SUBPART F: EXCESS REAL PROPERTY

Section  
5000.600  
5000.610  
5000.620  
5000.630  
5000.640  
5000.650  
5000.660  
EMERGENCY

Excess Real Property Defined  
Reports of Excess Real Property  
Utilization of Excess Real Property  
Charges for Use of Excess Property  
Temporary Occupancy  
Disputes  
Non-State Use

## SUBPART G: SURPLUS REAL PROPERTY

Section  
5000.700  
5000.710  
5000.720  
5000.730  
5000.740  
5000.750  
5000.760  
5000.770  
5000.780  
5000.790

Surplus Real Property Defined  
Declaration of Surplus  
Reporting Surplus Real Property  
Notice of Availability to State Agencies  
State Agency Requests for Surplus Real Property  
Transfer Decisions  
Transfer Procedures  
Transfer to Department of Central Management Services  
Subsequent Disposal  
Sale of Surplus

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

5000.800  
5000.810  
5000.820  
5000.830  
5000.840

Notice of Sale to Local Governments  
Local Government Offer to Purchase  
Public Sale  
Public Sale Procedures  
Non-State Interim Use

## SUBPART H: USE OF OFFICE BUILDING

Section  
5000.900  
5000.910  
5000.920  
5000.930  
5000.940  
5000.950  
5000.960  
5000.970

Applicability  
Definitions  
Business Hours and Public Access  
Prohibited Activities  
Demonstrations  
Exhibits and Special Events  
Distribution of Leaflets and Solicitations of Funds, Voter  
Registration and Signatures  
Severability

APPENDIX A  
APPENDIX B

Space Standards  
Rental Fees

AUTHORITY: Implementing Section 7.1 of the State Property Control Act [30 ILCS 605/7.1], implementing and authorized by Sections 51, 67.02, 67.06, 67.07, 67.22 and 67.24 of the Civil Administrative Code of Illinois [20 ILCS 5/51 and 20 ILCS 405/67.02, 67.06, 67.07, 67.22 and 67.24] and authorized by Section 6 of the State Property Control Act [30 ILCS 605/6], and the Illinois Procurement Code [30 ILCS 500] (see P.A. 90-572).

SOURCE: Adopted at 6 Ill. Reg. 12984, effective October 13, 1982; emergency amendment at 7 Ill. Reg. 3743, effective March 18, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 7825, effective June 22, 1983; emergency amendment at 8 Ill. Reg. 13444, effective July 17, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 19345; amended at 10 Ill. Reg. 636, effective December 31, 1985; amended at 17 Ill. Reg. 1006, effective January 19, 1993; emergency amendment at 17 Ill. Reg. 2361, effective February 5, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 10753, effective July 1, 1993; amended at 18 Ill. Reg. 1886, effective January 21, 1994; emergency amendment at 17 Ill. Reg. 15653, effective September 9, 1993, for a maximum of 150 days; amended at 19 Ill. Reg. 585, effective January 9, 1995; amended at 20 Ill. Reg. 12569, effective November 7, 1996; emergency amendment at 22 Ill. Reg. 12569, effective July 1, 1998, for a maximum of 150 days.

SUBPART A: GENERAL

Section 5000.120 Applicability  
EMERGENCY

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

This Part applies these rules apply to any activity of the Department of Central Management Services pertaining to the acquisition, management or disposal of State owned or leased real property. This Part shall be read in conjunction with applicable provisions of the Standard Procurement Rules, 44 Ill. Adm. Code 1. In the event of any conflict, this Part shall prevail over the Standard Procurement Rules. Department of Central Management Services authority is divided as follows:

- a) For purposes of leasing office and other space, the DCMS shall conduct all leasing activities as described herein for all State agencies, authorities, boards, commissions, departments, institutions, bodies politic and all other administrative units of outgrowths of the executive branch of State government except the Constitutional officers, the State Board of Education and the State colleges and universities and their governing bodies.
- b) For purposes of space assignment in DCMS managed buildings, all agencies must abide by this Part these rules.
- c) For purposes of leasing State land, DCMS has primary authority over land controlled by the several departments. No department may lease State land without the approval of DCMS except that the Department of Natural Resources Conservation, Transportation, Mines and Minerals and Agriculture may lease land under their jurisdiction to comply with program functions.
- d) Only DCMS may dispose of surplus State land.
- e) Any State agency, board, commission, etc., not required by statute or rule to use DCMS real estate services, may elect to do so.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 12569, effective July 1, 1998, for a maximum of 150 days)

## SUBPART B: LEASED SPACE ACQUISITION POLICY

## Section 5000.230 General Acquisition Procedures

## EMERGENCY

- a) DCMS will review State-owned space and space leased by other agencies which may be suitable to fill the agency space request. Such space, because it involves no outside expenditure or because use would avoid unnecessary lease costs, will be used in preference to newly acquired leased space. Exceptions will only be granted upon strong justification submitted by the head of the agency requesting space.
- b) If no suitable State-owned or controlled space is available, DCMS will so advise the requesting agency.
- c) To help ensure that DCMS personnel have awareness of comparable facilities, DCMS will periodically solicit information from property owners and managers regarding space that might be available for State use.
- d) DCMS will maintain proposals received from solicitations for at least twelve months from date of receipt. These proposals will be reviewed

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

to determine whether any locations are suitable to fill a particular space request.

e) Acquisition of leased space will be by negotiation. In acquiring space, DCMS will negotiate with multiple lessors of comparable facilities to the maximum extent practical.

d) Acquisition of space by lease will be on the basis most favorable to the State, with due consideration to maintenance and operational efficiency, and only at charges consistent with prevailing rates in the community for comparable facilities. In those instances where alterations to a property are needed, DCMS will review and approve the scope of work and method of payment prior to the commencement of work. Agencies are not to perform alterations to leased properties or enter into contracts for alterations without DCMS approval. DCMS will not, however, approve any lease or renovations therein without the agency desiring the space making a positive recommendation. Factors that could influence the decision to approve alterations include but are not limited to: length of term, cost relative to base cost, cost of base plus alterations compared to other site costs, degree of permanency of alterations, and demonstrated program need for alterations.

e) DCMS shall determine the appropriate term for a given lease (not to exceed 10 5 years unless paid solely by federal funds) and negotiate accordingly. The particular terms and conditions of a given lease will in general conform to DCMS standard lease form provisions. Changes, additions or deletions to these terms shall be at DCMS' discretion. Agency input will be solicited prior to negotiation.

f) DCMS will attempt to negotiate a favorable renewal option, State-option cancellation clause, and purchase option provision when appropriate.

g) All leases shall be accompanied by a full written disclosure of the identity of every owner and beneficiary having any interest in the premises being leased.

- 1) Such disclosure shall be subscribed and sworn or otherwise affirmed on oath by an owner, authorized trustee, corporate official, or managing agent.
- 2) Such disclosure shall set forth all ownership interests. By way of example, the disclosure should identify the names of the beneficiaries of a land trust in addition to the trustee, the names of all partners whether general or limited in nature, and the names of all shareholders in a corporation who are entitled to receive more than 7 1/2% of the total distributable income of the corporation. If stock in a corporation is publicly traded and no readily known individual owns more than a 7 1/2% interest, then the requirements of this rule may be met by an officer or managing agent of the corporation making an affirmative statement to this effect under oath.
- 3) Such disclosure shall set forth the identity of any State officer, employee or elected official, or the wife, husband, or



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

minor child of such person having an ownership or beneficial interest under the lease. In the event such person is so set forth, the disclosure shall include a specific designation of the percentage of the total distributable income such person, together with that of the wife, husband, or minor child of such person, is entitled to receive from any firm, partnership, association, or corporation which is the lessor.

- 4) It shall be the responsibility of the lessor to notify DCMS of any changes in ownership or beneficial interest and to submit updated disclosure statements reflecting such changes within 30 days after such change.

h) All leases shall be in writing and shall include:

- 1) a provision that they are subject to termination and cancellation in any year for which the General Assembly fails to make an appropriation to make payments under the terms of the lease.

- 2) a termination option in favor of the State after 5 years.

- i) Space that is not in compliance with the applicable accessibility regulations (see Appendix A) or is not capable of being brought in compliance with the installation of minimum essential features of accessibility by the time of occupancy, shall not be considered for use.

- j) A copy of all leases whose annual rent is \$10,000 or more shall be filed with the Comptroller within 15 days after their execution by the Director of DCMS.

- k) In selecting sites, preference may be given to sites located in enterprise zones, TIF districts, or redevelopment districts when requested by the Chief Executive Officer of a unit of local government located within the boundaries of the site search area.

- 5) Updated disclosure is required for all existing leases in effect on the effective date of this rule. For all such leases, a report must be submitted within 30 days after the effective date of these rules which:

- A) discloses any changes of ownership or beneficial interests from those previously reported; or

- B) confirms that there have been no changes.

- 6) The failure of a lessor to provide the disclosure required under the provisions of this Section shall be deemed a material breach of the lease and shall constitute grounds for termination of the lease agreement.

- 7) There shall be a standardized record-keeping and investigative procedure employed by DCMS personnel between the initial request by an agency for a leasehold facilities and the time of executing a lease. This procedure is as follows:

- 1) The request for space by an agency shall be assigned to a DCMS leasing representative whose responsibility it shall be to assemble potential leasing facilities.

- A) In doing so, the leasing representative shall view prospective facilities, gather necessary information, and

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

photograph potential sites, detail name of owner of building and prospective terms of lease, obtain copy of multiple listing sheet if property has been placed on the market, obtain comparable square foot costs in the immediate vicinity and prepare written memorandum to immediate superior detailing such above information. All documentary information shall be a permanent of the DCMS file.

- B) Should any employee or representative of the agency desiring space be involved in viewing prospective locations, the name of such individual shall be noted on the written report.

- C) Where shall be no dissemination of any information by either agency personnel or DCMS personnel concerning prospective locations to anyone outside the respective agencies involved in the leasing search.

- B) The leasing representative shall transmit the result of any leasehold potentials to his immediate supervisor together with a recommendation for further action.

- 2) Upon receipt from the leasing representative of potential lease arrangements, the supervisor shall review the documentary evidence and be responsible for

- A) negotiating with any potential lessor or authorizing negotiations by the subordinate or other party and

- B) communicating to the particular agency any facts necessary to enable agency personnel to have meaningful input into the leasehold negotiation.

- 3) Any proposed lease which contains non-standard terms, together with all negotiated items, shall be submitted to the DCMS legal counsel with a memorandum by the supervisor outlining the negotiations and detailing the oral representations which the parties have tentatively agreed upon.

- 4) Counsel for DCMS shall, at this point, review the original memorandum and the items of negotiation, review the prospective lease as to form and legal validity, and issue a written recommendation to the leasing supervisor regarding approval.

- 5) The Director, or designater, after a complete review of all documentation shall make the final decision with regard to the execution of the lease.

- 6) After internal review, the lease documents will be prepared by DCMS and sent to the lessor and using agency for signature. The lease will then be returned to DCMS for final execution and distribution.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 12569, effective July 1, 1998, for a maximum of 150 days)

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

All leases, except those falling under the exceptions listed in Section 5000.232 or emergency procurements (Section 5000.250) will be acquired as follows.

- a) All leases will be procured by a Request for Information (RFI). RFIs will contain at a minimum the following information:
  - 1) A description of the general type of property to be leased.
  - 2) The proposed use of the property.
  - 3) The proposed term of the lease.
  - 4) Preferred location of the property.
  - 5) General information such as size of space, configuration desired and any other appropriate requirements.
  - 6) Address to which requests for proposal may be sent.
  - 7) Date on which responses are due.
- b) Notices of the RFI shall be:
  - 1) published at least 14 days prior to the deadline for responding in both the Illinois Procurement Bulletin and a newspaper, having general circulation in the area in which space is being sought.
  - 2) of an appropriate size to draw attention and shall be placed in the legal advertisement section.
- c) A proposal package shall be mailed to all parties requesting one in writing. Proposal packages may also be mailed to owners of property that may meet the State's needs.
- d) Proposal packages shall at a minimum include:
  - 1) A Proposal Form.
  - 2) A copy of the Agency Program Requirements.
  - 3) An envelope for submitting the proposal.
  - 4) The date on which proposals must be submitted.
- e) All responses to the RFI will be publicly opened on the announced opening date. Names of all parties submitting proposals will be made available to the public.
- f) DCMS representatives may conduct discussions with respondents to further clarify the needs of the State or obtain further information on responses.
- g) On the basis of the responses to the RFI, the Director of DCMS or his designee shall make a written determination of which RFIs submitted are responsive to the State's basic criteria.
- h) DCMS representatives will enter into negotiations with all parties submitting responsive RFIs for the purpose of obtaining the best terms for the State. A written record of all negotiations will be maintained by DCMS.
- i) The DCMS leasing manager shall review all relevant information and shall recommend to the Director of DCMS which proposal should be accepted.
- j) The Director of DCMS will make the final award, which will be announced in the Illinois Procurement Bulletin.
- k) The lease will be reduced to writing and executed by all parties.
- l) Should the lowest priced proposal not be selected, the Director of DCMS shall publish notice, along with the reasons for such selection,

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

in the next available edition of the Procurement Bulletin.  
The State reserves the right to reject any and all proposals and to request and evaluate "best and final" proposals. All decisions on compliance, evaluations, terms and conditions shall be made solely at the State's discretion and made to favor the State.

(Source: Added by emergency rulemaking at 22 Ill. Reg. 12568, effective July 1, 1998, for a maximum of 150 days)

**Section 5000.232 Leases Acquired by Other Methods****EMERGENCY**

- a) The following types of leases may be acquired without a formal RFI process.
  - 1) Leases of less than 10,000 square feet as determined by DCMS space measurement standards (see Appendix A).
  - 2) Leases whose base rent is estimated to be less than \$100,000 per year.
  - 3) Leases whose term is less than one year and whose term is not subject to renewal.
  - 4) Specialized space available only at one location. Specialized space is defined as space or unique function or configuration, not generally available on the market on an as built or turnkey basis. Examples of specialized space include, but are not limited to: laboratories, vehicle testing stations, correctional facilities, medical facilities, boat docks and evidence storage facilities.
  - 5) Leases with other governmental units.
- b) Acquisition of such leases shall be by negotiation. Written summaries of all negotiations shall be maintained in DCMS files.
- c) DCMS is not restricted to negotiating only with those who respond to advertisements. DCMS shall remain responsible to consider other buildings or space known to meet general criteria.
- d) Recommendation of sites shall be reduced to writing and the final determination shall be made by the Director of DCMS. Reasons for selection shall be documented and maintained in DCMS lease files.
- e) None of the above shall prohibit the Director of DCMS from ordering a lease procurement to be made under the RFI provisions of Section 5000.231 if the Director deems it in the best interests of the State.

(Source: Added by emergency rulemaking at 22 Ill. Reg. 12568, effective July 1, 1998, for a maximum of 150 days)

**Section 5000.233 Renewal or Extension of Lease in Effect Prior to July 1, 1998****EMERGENCY**

Leases in effect prior to July 1, 1998 may be renewed or extended without advertisement or an RFI process if:



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

- a) The Director of DCMS determines that the renewal or extension is in the best interest of the State.
- b) The Director submits that determination in writing, along with the proposed renewal or extension, to the State Procurement Board.
- c) The Board does not object in writing within 30 days after submission.
- d) The Director of DCMS publishes notice of the renewal or extension in the next available issue of the Procurement Bulletin.

(Source: Added by emergency rulemaking at 22 Ill. Reg. 12569, effective July 1, 1998, for a maximum of 150 days)

**Section 5000.234 Renewal of Leases Entered into After July 1, 1998****EMERGENCY**

- a) Leases may be renewed if:

- 1) The Director of DCMS determines in writing that such renewal is in the best interest of the State.
  - 2) Notice of such renewal is published in the Procurement Bulletin at least 60 days prior to the exercise of such option.
- b) Documentation justifying renewals shall be maintained in DCMS lease files.

(Source: Added by emergency rulemaking at 22 Ill. Reg. 12569, effective July 1, 1998, for a maximum of 150 days)

**Section 5000.235 Purchase Options****EMERGENCY**

- a) All leases of free standing facilities shall contain an option to purchase exercisable by the State.
- b) Purchase options may be omitted if:
- 1) The lease is with a governmental entity or a not-for-profit entity.
  - 2) The Director of DCMS determines that a purchase option is not in the State's best interest and publishes his/her written determination in the Procurement Bulletin.

(Source: Added by emergency rulemaking at 22 Ill. Reg. 12569, effective July 1, 1998, for a maximum of 150 days)

**Section 5000.240 Lease Administration****EMERGENCY**

- a) DCMS will perform all functions of leasing building space and land incidental thereto for covered State agencies except as provided herein. Agencies otherwise authorized to acquire space by lease may request DCMS to perform such leasing functions in specific instances.
- b) Officials or employees of agencies for which DCMS will acquire leased

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

space shall at no time, before or after a space request is submitted to DCMS or after a lease agreement is made, directly or indirectly to DCMS lessors, offerors, or potential offerors for the purpose of making oral or written representation or commitments or agreements with respect to the terms of occupancy of particular space, tenant improvements, alterations and repairs, unless authorized by DCMS. Consequently, when it is ascertained by DCMS that an unauthorized contact has been made, lease acquisition action may be deferred until its nature and impact can be determined. Whenever an unauthorized contact is judged by the responsible DCMS leasing official to be detrimental to the State's interest, further leasing action may be suspended for such time as may be required to eliminate or minimize the detrimental impact.

- c) Lessors, offerors, or potential offerors, or their agents, shall be referred to the appropriate DCMS office.
- d) Agencies shall not negotiate lease terms, negotiate settlements, withhold rentals, or vacate a leased property without the prior approval of DCMS. Agencies are encouraged to deal with minor landlord/tenant problems (i.e., minor repairs, building comfort complaint, etc.) at a local level. Any significant difficulties shall immediately be reported to the appropriate DCMS Office for handling. All problems shall be noted on the local level on the forms provided by DCMS for this purpose and proper records maintained for use in the event a specific problem goes unresolved and further action is required.
- e) Each agency is responsible for budgeting sufficient money in appropriate line items to cover all obligations. Payments are to be made by the occupying agency and will not be considered the responsibility of DCMS.
- f) Except when deemed by the State Procurement Board to be in the best interest of the State, no State agency may incur rental obligations before occupying the space rented.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 12569, effective July 1, 1998, for a maximum of 150 days)

**Section 5000.250 Emergency Lease Procurement****EMERGENCY**

Emergency lease procurements may be made pursuant to 44 Ill. Adm. Code 1.2030 of the Standard Procurement Rules.

- a) The Director may, upon good cause shown, suspend the application of Subparts A-D of this Part governing the acquisition of leased real property in the event of a natural disaster, including but not limited to fire, flood, or other casualty, or agency action required by the order of a court of competent jurisdiction, where strict compliance with the applicable rule would result in consequences adverse to the best interests of the State.



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

- b) All requests for emergency suspension of applicable rules in a proposed lease transaction shall be accompanied by a written memorandum to the Director from the responsible leasing official setting forth the following:
- 1) A detailed description of the natural disaster or the requirements of a court order precipitating the request.
  - 2) A detailed description of the proposed leasing transaction.
  - 3) A narrowly drawn specification of the rule or rules sought to be suspended in application to the proposed leasing transaction.
  - 4) A specific indication that no reasonable alternatives exist to the suspension of the rule or rules which would be in the best interests of the State.
- c) Prior to submission to the Director the written memorandum of request shall be reviewed and approved by BEMS legal counsel.
- d) The Director after review of the memorandum of request may grant the suspension sought in whole or in part with respect to the proposed lease transaction; provided, however, that such suspension shall apply only to leases with terms not to exceed 2 years in duration.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 12582, effective July 1, 1998, for a maximum of 150 days)

## Section 5000.660 Non-State Use

## EMERGENCY

## a) Excess Real Property

- 1) Excess real property which cannot be used by a State agency, may be leased to the public, with governmental units being the preferred tenants, for periods of time not to exceed five years unless longer periods are authorized by statute. Vacant land shall be leased for periods of longer than five years if one of the following conditions is present:

- A) The lease is made with an organization which is providing program-related services to a State agency, a not-for-profit organization or a unit of local government and those services require the lessee to make permanent capital improvements to the leased land.
  - B) A longer lease term is specifically authorized by statute.
- 2) Rental shall be at the current fair market value payable to the proper State Treasury account in cash except that leases of Department of Corrections property for farming may be paid by crop share to the State. Rental may be waived or reduced to less than fair market value upon a showing of clear advantage to the State. Use of property for agency program related purposes or to prevent waste of the property are examples of clear advantage.
- b) Leases of excess property for office or storage use shall be accomplished by direct negotiation or sealed bidding pursuant to 44 Ill. Adm. Code 1.2010.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

- c) Leases of excess property for farm purposes will be accomplished by sealed bid, pursuant to 44 Ill. Adm. Code 1.2010. Invitations for Bid will be published at least 3 times in a ten-day period in a newspaper having general circulation in the county containing the property. This notice will inform all interested parties about the property, term of the lease, bid opening date and how to obtain additional information. At the date set for bid opening all bids will be read aloud and recorded. The winning bidder will be the one whose bid provides the best monetary return to the State and which meets all other conditions of the bid. A 10% performance bond or other security may be required of the winning bidder.
- d) Improvements made to State land will be forfeited to the State unless removed by lessee without damaging State property. Upon removal, lessee will restore the State property to its original condition unless specific written permission to the contrary is given.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 12583, effective July 1, 1998, for a maximum of 150 days)

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY RULES

- 1) Heading of the Part: Business Enterprise Program: Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities

- 2) Code Citation: 44 Ill Adm. Code 10

- 3) Section Numbers: Emergency Action:

|        |     |
|--------|-----|
| 10.05  | New |
| 10.10  | New |
| 10.20  | New |
| 10.21  | New |
| 10.22  | New |
| 10.23  | New |
| 10.24  | New |
| 10.25  | New |
| 10.30  | New |
| 10.35  | New |
| 10.40  | New |
| 10.50  | New |
| 10.55  | New |
| 10.60  | New |
| 10.61  | New |
| 10.62  | New |
| 10.63  | New |
| 10.64  | New |
| 10.65  | New |
| 10.66  | New |
| 10.67  | New |
| 10.68  | New |
| 10.69  | New |
| 10.70  | New |
| 10.71  | New |
| 10.72  | New |
| 10.80  | New |
| 10.90  | New |
| 10.91  | New |
| 10.100 | New |

- 4) Statutory Authority: Public Act 90-572 [30 ILCS 500 and 575]

- 5) Effective Date of Rulemaking: July 1, 1998

- 6) If this emergency rule is to expire before end of the 150-day period, please specify the date on which it is to expire: Not applicable.

- 7) Date Filed in Agency's Principal Office: July 1, 1998

- 8) Reason for Emergency: There was not sufficient time to develop proposed

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY RULES

rules that could be processed through normal rulemaking and have the rules effective July 1, 1998.

- 9) A Complete Description of the Subjects and Issues Involved: The emergency rules would replace the current rules found at 44 Ill. Adm. Code 1 with a new set of rules that we have reorganized and revised to better reflect current practices.

The emergency rules are identical to those proposed in 22 Ill. Reg. 8933.

- 10) Are there any proposed amendments to this Part pending? Yes

| <u>Section Numbers</u> | <u>Proposed Action</u> | <u>Illinois Register Citation</u> |
|------------------------|------------------------|-----------------------------------|
| 10.05                  | New                    | 22 Ill. Reg. 8933                 |
| 10.10                  | New                    | 22 Ill. Reg. 8933                 |
| 10.20                  | New                    | 22 Ill. Reg. 8933                 |
| 10.21                  | New                    | 22 Ill. Reg. 8933                 |
| 10.22                  | New                    | 22 Ill. Reg. 8933                 |
| 10.23                  | New                    | 22 Ill. Reg. 8933                 |
| 10.24                  | New                    | 22 Ill. Reg. 8933                 |
| 10.25                  | New                    | 22 Ill. Reg. 8933                 |
| 10.30                  | New                    | 22 Ill. Reg. 8933                 |
| 10.35                  | New                    | 22 Ill. Reg. 8933                 |
| 10.40                  | New                    | 22 Ill. Reg. 8933                 |
| 10.50                  | New                    | 22 Ill. Reg. 8933                 |
| 10.55                  | New                    | 22 Ill. Reg. 8933                 |
| 10.60                  | New                    | 22 Ill. Reg. 8933                 |
| 10.61                  | New                    | 22 Ill. Reg. 8933                 |
| 10.62                  | New                    | 22 Ill. Reg. 8933                 |
| 10.63                  | New                    | 22 Ill. Reg. 8933                 |
| 10.64                  | New                    | 22 Ill. Reg. 8933                 |
| 10.65                  | New                    | 22 Ill. Reg. 8933                 |
| 10.66                  | New                    | 22 Ill. Reg. 8933                 |
| 10.67                  | New                    | 22 Ill. Reg. 8933                 |
| 10.68                  | New                    | 22 Ill. Reg. 8933                 |
| 10.69                  | New                    | 22 Ill. Reg. 8933                 |
| 10.70                  | New                    | 22 Ill. Reg. 8933                 |
| 10.71                  | New                    | 22 Ill. Reg. 8933                 |
| 10.72                  | New                    | 22 Ill. Reg. 8933                 |
| 10.80                  | New                    | 22 Ill. Reg. 8933                 |
| 10.90                  | New                    | 22 Ill. Reg. 8933                 |
| 10.91                  | New                    | 22 Ill. Reg. 8933                 |
| 10.100                 | New                    | 22 Ill. Reg. 8933                 |

- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.

- 12) Information and questions regarding this rulemaking shall be directed to:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES  
NOTICE OF EMERGENCY RULES

Stephen W. Seiple  
720 Stratton Office Building  
Springfield, IL 62706  
217/782-9669

The full text of the Emergency Rules begins on the next page:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES  
NOTICE OF EMERGENCY RULES

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENTS, AND PROPERTY MANAGEMENT  
SUBTITLE A: PROCUREMENT AND CONTRACT PROVISIONS  
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 10

BUSINESS ENTERPRISE PROGRAM: CONTRACTING WITH BUSINESSES OWNED  
AND CONTROLLED BY MINORITIES, FEMALES AND PERSONS WITH DISABILITIES

SUBPART A: GENERAL

Section  
10.05 Introduction  
EMERGENCY  
10.10 Definitions  
EMERGENCY

SUBPART B: GOAL AND GOAL MEASUREMENT

Section  
10.20 Goal  
EMERGENCY  
10.21 Contracts and Expenditures Subject to the Goal  
EMERGENCY  
10.22 Categories of Contracts and Expenditures Exempt from Goal  
EMERGENCY  
10.23 Council Review of Agency Requests for Specific Exemptions  
EMERGENCY  
10.24 Goal Measurement  
EMERGENCY  
10.25 Subcontracting  
EMERGENCY

SUBPART C: AGENCY COMPLIANCE AND REPORTING

Section  
10.30 Agency Compliance  
EMERGENCY  
10.35 Professional and Artistic Contract Reporting  
EMERGENCY

SUBPART D: PROGRAM ELIGIBILITY

Section  
10.40 Program Eligibility  
EMERGENCY

SUBPART E: CERTIFICATION



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY RULES

## Section

## 10.50 General

## EMERGENCY

## 10.55 List of Certified Businesses

## EMERGENCY

## SUBPART F: CERTIFICATION REQUIREMENTS AND PROCEDURES

## Section

## 10.60 Application

## EMERGENCY

## 10.61 Applicant Requirements

## EMERGENCY

## 10.62 Time to Determine Eligibility

## EMERGENCY

## 10.63 Certification by Other Certifying Entities

## EMERGENCY

## 10.64 \$14,000,000 Sales Limitation; Exception

## EMERGENCY

## 10.65 Citizenship/Permanent Residency

## EMERGENCY

## 10.66 Ownership/Control by Members of Eligible Groups

## EMERGENCY

## 10.67 Ownership

## EMERGENCY

## 10.68 Control

## EMERGENCY

## 10.69 Notice of Certification or Denial

## EMERGENCY

## SUBPART G: RECONSIDERATION, DECERTIFICATION AND RECERTIFICATION

## Section

## 10.70 Review and Reconsideration

## EMERGENCY

## 10.71 Decertification Process

## EMERGENCY

## 10.72 Recertification Process

## EMERGENCY

## SUBPART H: SPECIAL ASSISTANCE FOR CERTIFIED BUSINESSES

## Section

## 10.80 Special Assistance

## EMERGENCY

## SUBPART I: CONTRACT REQUIREMENTS

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY RULES

## Section

## 10.90 Change in Eligibility

## EMERGENCY

## 10.91 Contract Commitment; Good Faith Effort

## EMERGENCY

## SUBPART J: VIOLATIONS BY VENDOR

## Section

## 10.100 Violations by Vendor

## EMERGENCY

AUTHORITY: Implementing and authorized by the Business Enterprise for Minorities, Females and Persons with Disabilities Act [30 ILCS 575].

SOURCE: Adopted by emergency rulemaking at 22 Ill. Reg. 12584, effective July 1, 1998, for a maximum of 150 days.

## SUBPART A: GENERAL

## Section 10.05 Introduction

## EMERGENCY

The Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575] (Act) establishes a goal that at least 12% of contracts awarded by State agencies subject to the Act be awarded to businesses owned and controlled by minorities, females, or persons with disabilities. The Act also authorizes development and use of a procedure to certify firms eligible for the benefits of the Act, allows for certain special treatment in contracting with certified businesses, and establishes a Council, Secretary and, in the Department of Central Management Services, a program function to implement and oversee the Act.

## Section 10.10 Definitions

## EMERGENCY

"BEP" or "Business Enterprise Program" means the activities conducted by the Council, Secretary and Department of Central Management Services pursuant to the Act.

"BEP eligible" or "BEP eligible vendor" means an MBE, FBE, or PBE.

"Council" means the public body established by the Act to implement and oversee implementation of the Business Enterprise Program.

"Eligible group member" means a person who meets the eligibility requirements set forth in Section 10.40(a) of this Part.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY RULES

"FBE" means a business owned and controlled by females in accordance with the requirements of the Act and this Part.

"MBE" means a business owned and controlled by minorities in accordance with the requirements of the Act and this Part.

"PBE" means a business owned and controlled by persons with disabilities in accordance with the requirements of the Act and this Part.

"Secretary" means the individual appointed to act as Secretary to the Council and to be manager of the BEP Division of the Department of Central Management Services.

SUBPART B: GOAL AND GOAL MEASUREMENT

Section 10.20 Goal  
EMERGENCY

Unless modified by resolution of the Council, the goal shall be 5% of contracts for MBEs, 5% for FBEs and 2% for PBEs.

Section 10.21 Contracts and Expenditures Subject to the Goal  
EMERGENCY

All contracts funded in whole or in part with funds appropriated by the General Assembly are subject to the goal unless exempted elsewhere in this Part.

Section 10.22 Categories of Contracts and Expenditures Exempt from Goal  
EMERGENCY

a) Contracts shall be exempt from the goal if:

- 1) the contract is subject to federal reimbursement; or
- 2) receipt of funds for a contract would be jeopardized by including them in the Program.

b) The Council has determined, pursuant to Section 7(2) of the Act, that the following categories of contracts and expenditures, including but not limited to the detailed expenditure accounts listed below each category, are exempt from the goal. This determination was made based on the best information available that these categories do not represent procurement opportunities for MBEs, FBEs or PBEs, or that there are not sufficient MBEs, FBEs or PBEs to ensure competition and an expectation of reasonable prices. The detailed expenditure accounts have the same meaning as used by the State Comptroller (see Statewide Accounting Management System manual, formerly CUSAS, chapter 11, Expenditure Authority). A copy of this manual is available in the Secretary's office.

- 1) Contracts between, or within, State agencies that do not include

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY RULES

payments to private vendors:

- A) University Central Data Processing Services;
- B) University Central Plant Services;
- C) University Central Supply Services;
- D) University Central Telecommunication Services; and
- E) University Central Transportation Services.

2) Contracts with or payments to other governmental entities:

- A) Payments to Local Governments for Employees;
- B) Reimbursements to Governmental Units;
- C) Postage and Postal Charges;
- D) Operating Taxes, Licenses and Fees;
- E) Revenue Stamps;
- F) Taxes and Transfers;
- G) Fire Protection Services;
- H) Shared Waterway Agreements; and
- I) Shared Revenue Payments.

3) Employee wages, salary and other payroll and employee related costs:

- A) Payments into Pension Funds;
- B) Pensions, Annuities and Benefits;
- C) Purchase of Investments;
- D) Employee Tuition Fees;
- E) Social Security;
- F) Retirement;
- G) Unemployment Compensation Payments;
- H) Legislative Staff Services;
- I) Registration Fees and Conference Expenses;
- J) Industrial Commission Awards or Settlement Awards for Injured Employees; and
- K) Awards, Benefits and Treatment Expenses - Injured Employees.

4) Payments of money to individuals or groups in the nature of reimbursement, settlement, entitlement, or assistance:

- A) Assistance Payments to Individuals;
- B) Awards and Grants to Students;
- C) Burial Expense Awards;
- D) Community Services for DMHDD and Chemically Dependent;
- E) Court of Claims Awards;
- F) Reimbursement for Living Expenses for State Awards Outside State Institutions;
- G) Tuition, Training Supplies and Equipment for Aided Persons;
- H) Lottery Prizes;
- I) Interviewee Expenses; and
- J) Tort Claims.

5) Debt retirement and refunds of money:

- A) Debt Retirement;
- B) Loans; and
- C) Refunds.

6) Grants:

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY RULES

## NOTICE OF EMERGENCY RULES

- A) Grants for Educational Purposes - School Districts;
- B) Grants for Educational Purposes - Higher Education;
- C) Grants to Local Governments (Other);
- D) Grants to Non-Profit Organizations;
- E) Grants to Other State Agencies; and
- F) Grants to or on behalf of Veterans and their Dependents.

## 7) Public utility contracts and payments:

- A) Electricity;
- B) Gas (Natural Gas);
- C) Telecommunications (regulated service only);
- D) Water; and
- E) Utilities (Other).

## 8) Real estate acquisition:

- A) Land (Relocation Costs);
- B) Land, Relocation Costs (Highways);
- C) Land, Relocation Costs (Waterways);
- D) Land, Rights of Way and Easements;
- E) Land, Rights of Way and Easements (Highway); and
- F) Land, Rights of Way and Easements (Waterways).

## 9) Miscellaneous contracts and expenditures:

- A) Association Dues; and
- B) Periodical Subscriptions.

- c) Prior to the end of each fiscal year, the Secretary shall investigate the categories of contracts and expenditures to determine whether, based on the best information available, these categories continue to represent procurements where there are no opportunities for MBEs, FBES or PBES, or that there are not sufficient MBES, FBES or PBES to ensure competition and an expectation of reasonable prices. The Secretary shall present the determination to the Council, and the Council shall either continue with the current categories or change the categories. The categories shall remain as stated in this Part until the Part is amended.

## Section 10.23 Council Review of Agency Requests for Specific Exemptions

## EMERGENCY

- a) Any State agency may request that the Council exempt specific contracts or expenditures from the goal. The agency must show, based on the best information available, that the particular contract does not represent a procurement opportunity for MBES, FBES or PBES, or that there are not sufficient MBES, FBES or PBES to ensure competition and an expectation of reasonable prices. The agency must provide a copy of any Invitation for Bids, Request for Proposals or other solicitation information issued, the amount of anticipated expenditures that would be exempt and the total agency appropriation. The documentation must show the agency engaged in a diligent effort to identify and solicit BEP eligible vendors, and the results of that effort.

- 1) A diligent effort requires, at a minimum, solicitation of appropriate vendors from the master vendor list maintained by the Council and advertising in appropriate media.
- 2) Whether the price quoted is reasonable shall be determined based upon current market prices, historic prices, prices received by other agencies for similar supplies or services, and the policy of the Business Enterprise Act to promote businesses owned by minorities, females and persons with disabilities.

- b) The Council shall exempt specific contracts from the goal if, after reviewing the information provided by the agency, it determines that the agency did make a diligent effort to contract with MBES, FBES and PBES and that the price was not reasonable. Any action by the Council to approve or deny a request for specific exemption shall be by resolution passed by the Council.

## Section 10.24 Goal Measurement

## EMERGENCY

- a) The goal shall be measured on a full fiscal year basis. The goal shall be measured against the total dollar amount of expenditures subject to the goal. Expenditures not covered are those described in Sections 10.22 and 10.23.

- b) Certain purchasing agencies, such as the Department of Central Management Services and the Capital Development Board, are responsible for establishing contracts for other (user) agencies. Those purchasing agencies shall be responsible for meeting the goal for such contracts even though the user agency may have the appropriation to fund the contract. To properly account for the goal in these situations, the following procedures shall be followed:

- 1) The user agency shall review its budget and subtract from its appropriation in each major or minor object code the amount it anticipates spending on contracts established by the purchasing agency. The purchasing agency shall report that amount to the Secretary.
- 2) Those amounts reported by user agencies to the Secretary shall be assigned by the Secretary to the appropriate purchasing agency. Such amounts will be included in the amount upon which the purchasing agency goal is based. This procedure does not result in money actually being transferred from the user agency to the purchasing agency. Rather, the transfer is for compliance plan accounting purposes only.
- 3) If a purchasing agency delegates procurement authority to a user agency, the purchasing agency's goal base shall be reduced in amount of the delegation and the user agency's goal base shall be increased in like amount.
- 4) If the user agency transfers money from a line subject to a purchasing agency's authority, the purchasing agency's goal base shall be reduced by that amount and the user agency's goal base



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY RULES

shall be increased by the amount of the transfer.

**Section 10.25 Subcontracting  
EMERGENCY**

An agency may satisfy its goal, in whole or in part, by counting expenditures made by State vendors to certified BEP vendors as subcontractors.

## SUBPART C: AGENCY COMPLIANCE AND REPORTING

**Section 10.30 Agency Compliance  
EMERGENCY**

- a) Each agency shall submit a compliance plan annually. The Council shall establish the format and timetable for submission of the plan. The Council shall approve the plan if it meets the requirements of the Act and this Part.
- b) The Council, on its own motion or upon request of a purchasing agency, shall recommend ways in which the purchasing agency may reach its goal. Upon a finding by the Council that a purchasing agency's compliance plan is insufficient to reach the agency's goal, the Council shall recommend ways in which the agency can reach its goal. Such recommendations may include, but shall not be limited to:
  - 1) using stronger and better focused solicitation efforts to obtain more BEP eligible businesses as potential sources of supply;
  - 2) division of job or project requirements, when economically feasible, into smaller, more manageable, tasks or quantities;
  - 3) elimination of extended experience or capitalization requirements when programmatically feasible; and
  - 4) identification of specific proposed contracts as particularly attractive or appropriate for participation by BEP eligible businesses.
- c) If the compliance plans or quarterly reports indicate the agency's goal will not be reached, the Council may request the agency head to appear before the Council and explain the agency's non-compliance. If the Council determines the agency is not making a serious effort to reach the goal, the Council will prepare a report for submission to the Governor with recommendations for remedial action.

**Section 10.35 Professional and Artistic Contract Reporting  
EMERGENCY**

Agencies shall report to the Council, except in emergency situations, professional and artistic contracting opportunities. The report is required by Section 6a of the Act and shall be made as follows:

- a) The agency must give notice to the Council that it intends to enter into a professional and artistic contract on the same day that the potential vendor is first contacted. Notice may be mailed, hand

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY RULES

- b) The notice shall include the agency name and address; contact person; contract reference number; date bid or proposal was first available; return dates and opening dates; term of the contract; services to be provided; special requirements; and dollar value. Notice may be given on the form available from the Secretary.
- c) If the professional and artistic contract is advertised in the Illinois Procurement Bulletin, the agency need not make a report to the Council.

## SUBPART D: PROGRAM ELIGIBILITY

**Section 10.40 Program Eligibility  
EMERGENCY**

- a) Businesses owned and controlled by individuals in the following eligible groups may submit applications for certification:
  - 1) Black - a person having origins in any of the black racial groups in Africa.
  - 2) Hispanic - a person of Spanish or Portuguese culture with origins in Mexico, South or Central American or the Caribbean (regardless of race).
  - 3) American Indian or Alaskan Native - a person having origins in any of the original people of North America.
  - 4) Asian American - a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands.
  - 5) Female - a person who is a citizen or lawful, permanent resident of the United States, and who is of the female gender.
  - 6) Person with a disability.
- b) MBE, PBE and PBE refer to for-profit enterprises regardless of form of organization (sole proprietorship, partnership or corporation). However, not-for-profit entities that meet the definition of a sheltered workshop for the disabled in accordance with Section 45-35 of the Illinois Procurement Code [30 ILCS 500] will also be classified as PBE.

## SUBPART E: CERTIFICATION

**Section 10.50 General  
EMERGENCY**

- a) The primary purpose of the certification process is to verify that the business is owned and control by BEP eligible individuals in accordance with requirements of the Act and this Part. The Secretary to the Council will oversee the certification process. The certification procedure consists of the requirements and procedures outlined in this Section.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY RULES

- b) The Secretary will certify an applicant firm that meets all of the requirements of the Act and this Part. The Secretary will conduct a routine review and reconsideration of each certified business at least one time every three years to ensure continued eligibility.
- c) Only certified businesses are eligible for the benefits of the Program. Agencies may count only those expenditures with a certified vendor, or subcontractor, toward meeting the goal.
- d) A business owned and controlled by females shall be certified as a FBE regardless of the ethnicity of the female owners.
- e) For a business to qualify as MBE, only those minorities who are male may be counted in determining ownership and control.
- f) A business owned and controlled 50% by minority males and 50% by minority females is a MBE for purposes of the Act.
- g) A business owned and controlled at least 51% by any combination of minorities, females and persons with disabilities shall be counted as a business owned and controlled by the eligible group that has the largest percentage of ownership. When there is a tie, the business shall select the eligible group classification.
- h) A business owned and controlled by a person with a disability, or by an entity that is a not-for-profit agency for the disabled, is a PBE regardless of the ethnicity or gender of the owner or owners.
- i) These classifications facilitate consistent accounting of agency contract awards to businesses covered by the Act. These classifications do not preclude such businesses or not-for-profit agencies from receiving any contract that may be awarded under the Illinois Procurement Code [30 ILCS 500] or other applicable law.

#### Section 10.55 List of Certified Businesses

**EMERGENCY**

- a) The Secretary, on behalf of the Council, shall compile a list of businesses certified under the Act.
- b) The list will contain the name, address, phone/fax numbers, e-mail address, type of certification (MBE, FBE or PBE) and business classification (e.g., accounting or furniture sales) of certified vendors.
- c) The list shall be available to the Chief Procurement Officers and State Purchasing Officers established under the Illinois Procurement Code, and to other interested State agencies for use in procurements under the Illinois Procurement Code and other procurement laws.
- d) The list shall be available to the public. This list may be in the form of a directory available for a fee to cover cost of compilation, publication and distribution.

## SUBPART F: CERTIFICATION REQUIREMENTS AND PROCEDURES

#### Section 10.60 Application

**EMERGENCY**

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY RULES

The business seeking certification must complete a BEP application package. The Secretary may conduct a personal interview with the applicant that may include a telephone interview and/or an on-site visit. Additional on-site visits may be conducted at any time during the life of a certification to verify continued eligibility for the Program.

#### Section 10.61 Applicant Requirements

**EMERGENCY**

The applicant for initial certification, or recertification, must meet all of the requirements set forth in the Act and this Part. Should the applicant fail to meet any of the certification requirements, or refuse to supply information requested by the Secretary, the Secretary will deny certification or recertification.

#### Section 10.62 Time to Determine Eligibility

**EMERGENCY**

The Secretary shall attempt to make a decision whether to certify or deny certification within 60 days after receipt of all requested information.

#### Section 10.63 Certification by Other Certifying Entity

**EMERGENCY**

- a) The Council will accept a certification by another entity in Illinois, such as a local government or vendor association. The other entity must have certification requirements and procedures equaling or exceeding those in the Act and this Part.
- b) The Secretary shall investigate requirements and procedures of other certifying entities and shall report to the Council the names of those certifying entities whose certifications can be accepted.
- 1) The other entities must agree to notify the Secretary should their requirements or procedures change in any material way. The Secretary shall periodically meet with the other certifying entities to help ensure Council requirements and procedures are being met.
- 2) If the other entities' requirements or procedures no longer equal or exceed the requirements and procedures of the Act or this Part, the Council will no longer accept those certifications. However, the Council will continue to honor previously accepted certifications until the Secretary reviews each one and, if necessary, revokes those that do not meet the requirements of the Act and this Part.

#### Section 10.64 \$14,000,000 Sales Limitation; Exception

**EMERGENCY**

- a) Annual gross sales of the applicant business for its most recent

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY RULES

fiscal year must be less than \$14 million.

- 1) In determining the annual gross sales, sales of any affiliated business shall also be counted.
  - 2) An affiliated business is one related to the other by virtue of significant commonality of management, or commonality of ownership (at least 5% of one company owned by owner or management personnel of the other). Other factors that may be considered in determining affiliation include, but are not limited to, sharing of office space, workers or equipment.
  - b) A business with annual gross sales of \$14 million or more in its most recent fiscal year is eligible to participate in the program if the business can show that if it were to receive a particular contract or subcontract, there would be a significant impact on employment of minorities, females or persons with disabilities, or in the use of BEP certified subcontractors or suppliers.
  - 1) For the impact to be significant in terms of employment, the business would have to hire new employees with a full time equivalence to 50% of their work force. In addition, at least 51% of those new hires must be minority, female or persons with disabilities.
  - 2) For the impact to be significant in terms of use of subcontractors or suppliers, the business must direct 75% of the value of the contract to BEP certified vendors as subcontractors or suppliers.
- If the business makes contractual commitments regarding hiring or use of subcontractors or suppliers, agrees to appropriate enforcement mechanisms, such as bonding or damage provisions, and meets the other requirements for certification, the Secretary, on behalf of the Council, will approve counting expenditures under that contract toward the agency's goal.

**Section 10.65 Citizenship/Permanent Residency****EMERGENCY**

- a) The individuals claiming ownership and control of the applicant business must be citizens or lawful permanent residents of the United States.
- b) Proof of citizenship or permanent residency must be confirmed by a birth certificate, naturalization papers, permanent resident status documents, passports or other documents.

**Section 10.66 Ownership/Control by Members of Eligible Groups****EMERGENCY**

- a) The individuals claiming ownership and control of the applicant business must be members of the eligible groups identified in Section 10.40(a) of this Part.
- b) The applicant must provide proof of eligible group status. Proof must

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY RULES

be in the form of official documentation such as birth certificates, passports, naturalization papers, or Tribal I.D. Card, if available. If an individual does not have official documentation, or if it is not sufficient, the Secretary will consider other evidence the applicant submits. Other evidence might include whether the individual identifies with, holds him or herself out as part of, or others recognize him or her as belonging to, an eligible group.

**Section 10.67 Ownership****EMERGENCY**

- a) The individuals claiming ownership and control of the applicant business must own at least 51% of the business.
- b) The ownership shall be real, substantial and continuing and not simply a matter of form. "Real" is a bona fide investment in the business done at arm's length and in good faith. "Substantial" is the level of investment necessary to initiate or acquire the particular business in light of its value, the business field, the organization of the concern, and the potential sources of outside financing. The following factors, among others, help determine whether ownership is real, substantial, continuing and not a matter of form.
  - 1) How ownership was obtained, including, but not limited to, purchase, gift or inheritance.
  - 2) How substantial was the contribution toward ownership in terms of expertise, money, or other such factors? The following are some examples of factors that may indicate insufficient contribution:
    - A) minimal cash outlay or personal investment;
    - B) a promise or agreement to contribute capital;
    - C) a note payable to the firm or other owners who are not eligible group members;
    - D) contributions for services rather than capital, except where services are unique, specialized or of a value commensurate with the ownership value of such services;
    - E) payment of contribution with funds loaned by a non-eligible group, former employer or stockholder;
    - F) no recourse loans where the borrower assumes no liability for repayment upon default; and
    - G) no recourse stock purchases wherein the purchaser assumes no liability upon default of payment other than transaction of shares.
- 3) How the applicant holds ownership. In terms of stock holdings, the following are factors that may indicate ownership is not as stated:
  - A) minimal cash outlay or personal investment;
  - B) a promise or agreement to buy stock;
  - C) stock issued, but not purchased;
  - D) stock certificates purchased but not in the possession of the applicant; or



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY RULES

- E) stock held in trust.
- 4) The applicant must provide documentary proof of ownership, including, but not limited to, the following:
- A) canceled checks or bookkeeping entries;
  - B) signed purchase agreements;
  - C) stock certificates, transfer ledgers and stockholder agreements;
  - D) partnership agreements;
  - E) profit sharing agreements; and
  - F) buy-out-right agreements.

**Section 10.68 Control****EMERGENCY**

The individuals claiming ownership and control of the applicant business must actually control the applicant business. Those individuals must be in direct control of the day to day operations, and must have, and exercise, the power to make major decisions on management, policy, fiscal and operational matters. Ownership by eligible group members does not equate to control. At a minimum, the following factors will be considered in determining control.

- a) Do the articles of incorporation show the eligible group owners were involved at the time of incorporation and in what way? If the eligible group owners were not involved at the time of incorporation, when did they become involved?
- b) Corporate by-laws will be reviewed to determine:
  - 1) the duties of the directors and officers who occupy these positions;
  - 2) the voting rights of the shareholders; and
  - 3) any restrictive language that may affect the eligible group owner's stock voting rights.
- c) Are there any stock options/shareholders agreements that, if exercised, will dilute or eliminate eligible group owner control?
- d) Do the eligible group owners make decisions independently?
- e) Does a review of resumes show the eligible group owners have sufficient background, including education and training, for responsibilities assigned?
- f) Do the eligible group owners continue to work for a firm not eligible for the BEP, and if so, what is the relationship of the firm to the applicant business?
- g) Who in the firm negotiates contracts and loans, prepares estimates and makes other management and supervisory decisions?

**Section 10.69 Notice of Certification or Denial****EMERGENCY**

- a) Notification of Certification
- When the Secretary has determined that the applicant meets all requirements of the Act and this Part, the Secretary will notify the

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY RULES

applicant by letter that it has been certified.

- b) Notification of Denial of Certification

When the Secretary determines that the applicant does not meet the requirements of the Act and this Part, the Secretary shall send a letter to the applicant setting forth the rationale for the determination, inviting the applicant to provide additional information in the areas of concern and advising the applicant of the review process. The Secretary shall remove the applicant from the list of certified vendors.

## SUBPART G: RECONSIDERATION, DECERTIFICATION AND RECERTIFICATION

**Section 10.70 Review and Reconsideration****EMERGENCY**

- a) The applicant may request that the Secretary reconsider a certification denial. The Secretary shall inform the applicant of the reconsideration decision within three months after receipt of the request for reconsideration. If the decision is not favorable to the applicant, the Secretary shall inform the applicant of additional reviews that are available. If the Secretary fails to inform the applicant within the three month period, the reconsideration request will be considered denied.
- b) The applicant may request that the Council's Certification Committee, made up of at least three Council members appointed by the Council's chair, review the reconsideration decision of the Secretary. The applicant must submit this request in writing to the Secretary postmarked no later than 30 days after the applicant received the Secretary's decision. The request must state why the applicant believes the Secretary's decision is wrong, must address all points raised in the Secretary's decision and must include any supporting documentation.
- c) The Secretary will attempt to schedule a Committee meeting within 30 days after receipt of the request for review. The meeting shall be held in Springfield or Chicago unless the Committee agrees to meet at some other location. The Secretary will notify the applicant at least 10 days prior to the meeting of the location, date and time.
- d) The Secretary shall provide each Committee member with a copy of the request for review, other relevant information and a response to the points raised in the request for review. Each Committee member shall review the files prior to the meeting.
- e) The Committee Chair shall call the meeting to order, announce the matter at issue and explain the meeting procedures. The Chair shall briefly restate the reasons given for the Secretary's decision and open the floor to the applicant. The meeting shall proceed in an informal manner within these procedures. All information obtained shall be considered.
- f) The applicant may make an opening statement, but must respond to each

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY RULES

of the reasons given in the Secretary's decision. The applicant may call and question any witnesses. The Committee may ask questions of the applicant, the Secretary or any other person present. The Secretary may comment at any time. When the applicant is finished the Secretary may call witnesses. Both applicant and Secretary may make closing statements. Although the applicant may have an attorney or other representatives assist at the meeting, applicant must be present if any representative is present and applicant must respond to questions of the Committee.

- g) The Committee shall consider the information obtained at the meeting either as a body or individually. The Committee's decision will be based upon majority vote.
- h) If the decision is favorable to the applicant, the Secretary will notify and place the applicant on the list of certified vendors. If the decision is adverse to the applicant, the Secretary will notify the applicant, providing the Committee's reasons and information on the further review that is available.
- i) The applicant may ask that the full Council review an adverse decision of the Certification Committee. The applicant must submit this request in writing to the Secretary. The request must be postmarked no later than 15 days after the applicant received the Committee's decision. This request must state why the applicant believes the Committee's decision is wrong, must address all points raised in the Committee's decision and must include any supporting documentation.
- j) The Secretary shall provide each Council member with a copy of the second request and a copy of the Secretary's file on the matter for review. In addition, the Secretary shall prepare and submit to the Council a draft response to the points raised in the second request for review. The Secretary shall consult with the Committee prior to submitting the draft.
- k) The Council shall consider the second request at the next regularly scheduled Council meeting provided that the second request was received by the Secretary at least 21 days prior to that Council meeting. If received after that time, the matter will be considered at the next following Council meeting. The applicant will be told of the location, date and time of the meeting.
- l) The Council shall consider only the written information provided or produced by the applicant, the Certification Committee and the Secretary. The Council may, on its own, request that the applicant address the Council or respond to specific questions. If the Council requests that the applicant be present, the applicant may have an attorney or other representative assist at the meeting, but the applicant must be available to respond to Council questions. The Council will allow the applicant to address the Council if the applicant makes that request as part of the second request.
- m) After reviewing all information obtained, the Council shall vote to uphold the Committee's decision, overturn the Committee's decision or have the matter sent back to the Committee for reconsideration with

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY RULES

instructions from the Council.

- n) If the decision is favorable to the applicant, the Council shall inform the Secretary. The Secretary shall place the applicant on the list of certified vendors. The Secretary shall inform the applicant.
- o) If the decision is adverse to the applicant, the Council shall inform the Secretary. The Secretary shall notify the applicant.
- r) If the decision is to send the matter back to the Committee, the process shall continue from that point until resolved at the Committee or Council level.

#### Section 10.71 Decertification Process EMERGENCY

- a) The State, or a third-party, may challenge the certification status of a business at any time.
- b) Upon receipt of information that questions the validity of a certification, the Secretary shall conduct an investigation. This may include on-site or telephone interviews, review of existing records, or collection and examination of new records to supplement, explain or clarify records previously submitted.
- c) If the investigation results in a finding that the firm is no longer eligible for BEP status, the Secretary shall notify the firm that it is decertified. The applicant may appeal using the review and reconsideration procedure of Subpart G. After decertification, the applicant may not reapply for certification until one year has passed since the date of decertification. A certification of the applicant by another entity shall not be accepted during the one year period following decertification.

#### Section 10.72 Recertification Process EMERGENCY

- a) Sixty days prior to expiration of the certification, the Secretary shall send a letter to the business advising that it must complete and return the application. The application must be postmarked at least 15 days prior to expiration of the current certification. Failure to meet that deadline shall result in expiration of the certification.
- b) If the applicant submits the material 15 days before the expiration of the current certification, the original certification shall remain in effect until the Secretary completes the recertification process.
- c) Upon receipt of the recertification application, the Secretary will review it for changes that affect eligibility under the Act or this Part.
- d) If no such changes have occurred, the Secretary will recertify the applicant. If changes give rise to questions regarding eligibility, the Secretary will notify the applicant and request clarification and/or additional information.
- e) When all questions of eligibility have been resolved in favor of the



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY RULES

applicant, the Secretary will issue a new certification valid for a period of one year.

- f) If the Secretary determines that the firm is not eligible, the Secretary will notify the applicant by letter. The letter shall include the reasons for the decision and shall inform the applicant of the review and reconsideration process.

## SUBPART H: SPECIAL ASSISTANCE FOR CERTIFIED BUSINESSES

## Section 10.80 Special Assistance

## EMERGENCY

- a) Purchasing agencies may waive or reduce bond requirements for certified vendors when allowed by law and when the reduced bond amount would adequately protect the State's interests.
- b) Purchasing agencies may enter into contracts with certified vendors that contain a provision allowing advance or progress payments or both, except that a construction contract may not contain an advance payment provision. The advance or progress payment provision may be added to a contract at any time by agreement of the parties. Agencies must consider the application of Section 9.05 of the State Finance Act [30 ILCS 105/9.05] before including such provisions in contracts.
- c) With the prior general approval of the Council, the Chief Procurement Officer (Director of the Department of Central Management Services) may, by express written authorization, allow purchasing agencies to establish set-asides and other such preferences for BEP certified vendors.

## SUBPART I: CONTRACT REQUIREMENTS

## Section 10.90 Change in Eligibility

## EMERGENCY

- a) Any contract awarded with Section 10.80 provisions may not be assigned to another vendor without approval of the Secretary.
- b) Should a vendor who received a contract with Section 10.80 provisions cease to qualify as a BEP vendor during contract performance, the purchasing agency may cancel the contract immediately without penalty to the State.
- c) Any change in the eligibility status of a vendor shall be reported to the Council by both the vendor and the purchasing agency.

## Section 10.91 Contract Commitment; Good Faith Effort

## EMERGENCY

- a) A vendor who obtains a contract requiring hiring of BEP certified vendors, such as pursuant to Section 10.64, or who makes a voluntary contractual commitment to hire BEP certified vendors, and who fails to

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY RULES

do so, is subject to having the contract canceled. If the agency cancels the contract, the vendor may be liable for any damages the State suffers as a result of the cancellation. The State may excuse the vendor's failure if the vendor can show a good faith effort to remain in compliance.

- b) Any vendor claiming good faith relief must fully document, in writing, the steps taken to obtain BEP certified vendors as subcontractors. The State may require that the vendor provide additional information on request. A good faith effort shall, at a minimum, consist of the following:
  - 1) contacting the Business Enterprise Division at least 15 days prior to need and requesting referrals from the certified vendor list and from any other list maintained by the Division;
  - 2) advertising in the Official State Newspaper or a local newspaper as time permits; and
  - 3) contacting appropriate organizations such as unions, contractor associations, and minority or female oriented organizations.

- c) If a good faith exception is given, the purchasing agency shall notify the Secretary of the exception and shall include all pertinent information.

## SUBPART J: VIOLATIONS BY VENDOR

## Section 10.100 Violations by Vendor

## EMERGENCY

Should a vendor violate the Act, this Part, or the terms of contracts let pursuant to this Program, the State may pursue any or all of the following actions.

- a) A certified vendor may be decertified and an applicant for certification may be denied certification for reasons including, but not limited to:
  - 1) refusal to supply information sufficient for the Secretary or the Council to make a determination for eligibility or continued eligibility as indicated in Section 10.61 (Applicant Requirements);
  - 2) refusal to supply additional proof of eligibility for the program, particularly after receiving a contract with Section 10.80 (Special Assistance) provisions;
  - 3) accepting a contract with Section 10.80 (Special Assistance) provisions when the vendor does not qualify for the program; and
  - 4) any other violation of the Act or this Part.
- b) The State may cancel, without penalty to the State, any contract entered into by a vendor in knowing violation of:
  - 1) the Act or this Part;
  - 2) the requirements of a contract let with Section 10.80 (Special Assistance) provisions; or
  - 3) commitments regarding use of certified vendors, including, but



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY RULES

not limited to, those in Section 10.64 (\$14,000,000 Sales Limitation; Exception) and Section 10.91 (Contract Commitment; Good Faith Effort).

c) In the case of a cancellation under subsection (b)(2) or (b)(3), the amount of profit applicable to amounts paid to the vendor shall be withheld from any amounts owed to the vendor. If the amount owed the vendor is insufficient to off-set profits, the vendor shall be liable to pay back to the State any balance of those profits. The profit rate shall be deemed 20% unless a lesser or greater amount can be conclusively proved.

d) The Secretary may suspend a vendor for a period of no more than one year for a knowing violation of:

- 1) the Act or this Part;
- 2) the requirements of a contract let with Section 10.80 (Special Assistance) provisions; or
- 3) commitments regarding use of certified vendors, including, but not limited to, those in Section 10.64 (\$14,000,000 Sales Limitation; Exception) and Section 10.91 (Contract Commitment; Good Faith Effort).

e) Depending on the seriousness of the violation, the suspension shall be:

- 1) from participation in the BEP program; or
- 2) from further contracting with the State.

f) A vendor may appeal any of the actions taken pursuant to this Section in the same manner as a vendor denied certification (see Subpart G of this Part).

g) The Secretary shall notify the Chief Procurement Officers, State Purchasing Officers and other interested parties of the revocation of certification or of suspension.

h) If any agency finds or suspects that a business is in violation of the Act or of this Part, such violation should be reported to the Secretary as soon as practicable after the finding.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Pay Plan

2) Code Citation: 80 Ill. Adm. Code 310

3) Section Numbers: Emergency Action:

|                |         |
|----------------|---------|
| 310.110        | Amended |
| 310.130        | Amended |
| 310.290        | Amended |
| 310.450        | Amended |
| 310.495        | Amended |
| 310.530        | Amended |
| 310.540        | Amended |
| 310.Appendix B | Amended |
| 310.Appendix C | Amended |
| 310.Appendix D | Amended |
| 310.Appendix G | Amended |

4) The specific statutory citation upon which the rule is based and authorized: 20 ILCS 415/8 and 8a.

5) The effective date of the rule: July 2, 1998

6) If this emergency rule is to expire before the end of the 150 days period, please specify the date: The emergency amendment will extend to the full 150 days.

7) Date filed in Agency's principal office: July 2, 1998

8) The reason for the emergency: This emergency filing is necessary to implement the Pay Plan changes for Fiscal Year 1999 affecting the Merit Compensation System Salary Schedule.

9) A Complete Description of the Subjects and Issues Involved: The following amendments to Sections 310.110, 310.130, 310.290, 310.450, 310.530, 310.540, and 310.Appendices B, C, D and G reflect the Fiscal Year 1999 changes that affect those employees subject to the Schedule of Salary Grades and Merit Compensation.

In Sections 310.110 (Implementation of Pay Plan Changes for Fiscal Year 1998) and 310.130 (Effective Date), the dates are being changed to reflect the new Fiscal Year 1999.

The reference to receiving a one-time lump sum payment of \$565 in Sections 310.110 and 310.530 is being deleted since this will be rescinded after June 30, 1998.

Narrative in reference to employees subject to the alternative retirement formula is being omitted in Sections 310.110, 310.450 and 310.530.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

The previous suspension of Merit Increases to employees other than those subject to the alternative retirement formula as stated in Sections 310.450, 310.530 and 310.540 is being removed.

In Section 310.290, Out-of-State or Foreign Service Rate, the salary ranges for the Foreign Service and Merit Compensation out-of-state titles are being revised to reflect the 3% increase in the Schedule of Salary Grades, Merit Compensation ranges and negotiated rates.

In Section 310.495, Broad-Band Pay Range Classes, subsections (e) and (f) are being deleted since this is in reference to the initial placement of positions in the Public Service Administrator and Senior Public Service Administrator Classes. Also, the two levels for the Senior Public Service Administrator class are being deleted.

In Section 310.540, Annual Merit Increase Guidechart for Fiscal Year 1999, the new Merit Compensation guidechart is being revised to reflect changes in definitions and allowable amounts of salary increases for the level of performance. Merit increases for all employees are being reinstated.

In Section 310. Appendix B, the Schedule of Salary Grades is being upgraded to include a general increase of 3% which is identical to that already negotiated by the major collective bargaining units for July 1, 1998.

In Section 310. Appendix C, the Medical Administrator Rates are being increased by 3% for Fiscal Year 1999.

In Section 310. Appendices D and G, the minimum salaries for the Merit Compensation System Salary Schedule and Broad-Band Pay Range Classes Salary Schedule are being increased by 3%, while the maximum salaries of the new schedules will reflect an increase of 3% to the Fiscal Year 1998 salary maximums of the alternative retirement formula schedule. The Senior Public Service Administrator will no longer reflect levels.

10) Are there any proposed amendments pending to this part? Yes

| Section Numbers     | Proposed Action | Ill. Reg. Citation |
|---------------------|-----------------|--------------------|
| 310.70              | Amended         | 22 Ill Reg. 7385   |
| 310.100             | Amended         | 22 Ill Reg. 7385   |
| 310.140             | Repealed        | 22 Ill Reg. 7385   |
| 310.280             | Amended         | 22 Ill. Reg. 7385  |
| 310.490             | Amended         | 22 Ill. Reg. 7385  |
| Appendix A, Table A | Amended         | 22 Ill. Reg. 7385  |
| Appendix A, Table B | Amended         | 22 Ill. Reg. 7385  |
| Appendix A, Table D | Amended         | 22 Ill. Reg. 7385  |
| Appendix A, Table F | Amended         | 22 Ill. Reg. 7385  |
| Appendix A, Table S | Amended         | 22 Ill. Reg. 7385  |

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

Appendix A, Table V Amended 22 Ill. Reg. 7385

11) Statement of Statewide Policy Objectives: This rulemaking does not affect local government units.

12) The name, address and telephone number of the person to whom information and questions regarding this adopted rule shall be directed to:

Mr. Michael Murphy  
Department of Central Management Services  
Division of Technical Services  
504 William G. Stratton Building  
Springfield, Illinois 62706  
Telephone: (217) 782-5601

The full text of the Emergency Amendments is as follows:

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND  
POSITION CLASSIFICATIONS

## CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310  
PAY PLAN

## SUBPART A: NARRATIVE

|         |  |
|---------|--|
| Section |  |
| 310.20  | Policy and Responsibilities  |
| 310.30  | Jurisdiction   |
| 310.40  | Pay Schedules  |
| 310.50  | Definitions  |
| 310.60  | Conversion of Base Salary to Pay Period Units                        |
| 310.70  | Conversion of Base Salary to Daily or Hourly Equivalents             |
| 310.80  | Increases in Pay   |
| 310.90  | Decreases in Pay   |
| 310.100 | Other Pay Provisions   |
| 310.110 | Implementation of Pay Plan Changes for                               |
| 310.120 | Fiscal Year 1999 1998  |
| 310.130 | Interpretation and Application of Pay Plan                           |
| 310.140 | Effective Date   |
| 310.150 | Reinstitution of Within Grade Salary Increases                       |
| 310.160 | Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, Effective |
| 310.170 | July 1, 1984 (Repealed)  |

## SUBPART B: SCHEDULE OF RATES

|         |   |
|---------|---|
| Section |   |
| 310.205 | Introduction  |
| 310.210 | Prevailing Rate   |
| 310.220 | Negotiated Rate   |
| 310.230 | Part-Time Daily or Hourly Special Services Rate                 |
| 310.240 | Hourly Rate   |
| 310.250 | Member, Patient and Inmate Rate                                 |
| 310.260 | Trainee Rate  |
| 310.270 | Legislated and Contracted Rate                                  |
| 310.280 | Designated Rate   |
| 310.290 | Out-of-State or Foreign Service Rate                            |
| 310.300 | Educator Schedule for RC-063 and HR-010                         |
| 310.310 | Physician Specialist Rate                                       |
| 310.320 | Annual Compensation Ranges for Executive Director and Assistant |
| 310.330 | Executive Director, State Board of Elections                    |
| 310.340 | Excluded Classes Rate (Repealed)                                |

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

## SUBPART C: MERIT COMPENSATION SYSTEM

|         |  |
|---------|--|
| Section |  |
| 310.410 | Jurisdiction   |
| 310.420 | Objectives   |
| 310.430 | Responsibilities   |
| 310.440 | Merit Compensation Salary Schedule                                   |
| 310.450 | Procedures for Determining Annual Merit Increases                    |
| 310.455 | Intermittent Merit Increase  |
| 310.460 | Merit Zone (Repealed)  |
| 310.470 | Other Pay Increases  |
| 310.480 | Adjustment   |
| 310.490 | Decreases in Pay   |
| 310.500 | Other Pay Provisions   |
| 310.510 | Broad-Band Pay Range Classes   |
| 310.520 | Definitions  |
| 310.530 | Conversion of Base Salary to Pay Period Units                        |
| 310.540 | Conversion of Base Salary to Daily or Hourly Equivalents             |
| 310.550 | Implementation   |
| 310.560 | Annual Merit Increase Guidechart for Fiscal Year 1999 1998           |
| 310.570 | Fiscal Year 1985 Pay Changes in Merit Compensation System, effective |
| 310.580 | July 1, 1984 (Repealed)  |

## APPENDIX A

|         |  |
|---------|--|
| TABLE A | Negotiated Rates of Pay  |
| TABLE B | HR-190 (Department of Central Management Services - State of Illinois Building - SEIU) |
| TABLE C | NR-916 (Department of Natural Resources, Teamsters)                                    |
| TABLE D | HR-200 (Department of Labor - Chicago, Illinois - SEIU)                                |
| TABLE E | RC-069 (Firefighters, AFSCME) (Repealed)   |
| TABLE F | HR-001 (Teamsters Local #726)  |
| TABLE G | RC-020 (Teamsters Local #330)  |
| TABLE H | RC-019 (Teamsters Local #25)   |
| TABLE I | RC-045 (Automotive Mechanics, IFPE)  |
| TABLE J | RC-006 (Corrections Employees, AFSCME)   |
| TABLE K | RC-009 (Institutional Employees, AFSCME)   |
| TABLE L | RC-014 (Clerical Employees, AFSCME)  |
| TABLE M | RC-023 (Registered Nurses, INA)  |
| TABLE N | RC-008 (Boilermakers)  |
| TABLE O | RC-110 (Conservation Police Lodge)   |
| TABLE P | RC-010 (Professional Legal Unit, AFSCME)   |
| TABLE Q | RC-028 (Paraprofessional Human Services Employees, AFSCME)                             |
| TABLE R | RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE)            |
| TABLE S | RC-033 (Meat Inspectors, IFPE)   |



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

|            |  |
|------------|--|
| TABLE R    | RC-042 (Residual Maintenance Workers, AFSCME)                          |
| TABLE S    | HR-012 (Fair Employment Practices Employees, SEIU)                     |
| TABLE T    | HR-010 (Teachers of Deaf, IFT)   |
| TABLE U    | HR-010 (Teachers of Deaf, Extracurricular Paid Activities)             |
| TABLE V    | CU-500 (Corrections, Meet and Confer Employees)                        |
| TABLE W    | RC-062 (Technical Employees, AFSCME)                                   |
| TABLE X    | RC-063 (Professional Employees, AFSCME)                                |
| TABLE Y    | RC-063 (Educators, AFSCME)   |
| TABLE Z    | RC-063 (Physicians, AFSCME)  |
| APPENDIX B | Schedule of Salary Grades - Monthly Rates of Pay                       |
| EMERGENCY  | for Fiscal Year 1999 1998  |
| APPENDIX C | Medical Administrator Rates for Fiscal Year 1999 1998                  |
| EMERGENCY  |  |
| APPENDIX D | Merit Compensation System Salary Schedule for Fiscal Year 1999 1998    |
| EMERGENCY  |  |
| APPENDIX E | Teaching Salary Schedule (Repealed)                                    |
| APPENDIX F | Physician and Physician Specialist Salary Schedule (Repealed)          |
| APPENDIX G | Broad-Band Pay Range Classes Salary Schedule for Fiscal Year 1999 1998 |
| EMERGENCY  |  |

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; peremptory

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; peremptory amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; peremptory amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; peremptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; peremptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; peremptory amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; peremptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; peremptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; peremptory amendment 11 Ill. Reg. 17919, effective October 19, 1987; peremptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; peremptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; peremptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; peremptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; peremptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; peremptory amendment at 12 Ill. Reg. 20584, effective November 28, 1988; peremptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; peremptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; peremptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; peremptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; peremptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; peremptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; peremptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; peremptory amendment at 15 Ill. Reg. 663, effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; peremptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; peremptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; peremptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; peremptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; peremptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; peremptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; peremptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; peremptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; peremptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; peremptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; peremptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

Reg. 6452, effective May 2, 1995; peremptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; peremptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December 22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; peremptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; peremptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; peremptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; peremptory amendment at 20 Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 8, 1997, for a maximum of 150 days; peremptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; peremptory amendment at 21 Ill. Reg. 14589, effective October 15, 1997; peremptory amendment at 21 Ill. Reg. 15030, effective November 10, 1997; amended at 21 Ill. Reg. 16344, effective December 9, 1997; peremptory amendment at 21 Ill. Reg. 16465, effective December 4, 1997; peremptory amendment at 21 Ill. Reg. 17167, effective December 9, 1997; peremptory amendment at 22 Ill. Reg. 1593, effective December 22, 1997; amended at 22 Ill. Reg. 2580, effective January 14, 1998; peremptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; peremptory amendment at 22 Ill. Reg. 5108, effective February 26, 1998; peremptory amendment at 22 Ill. Reg. 5749, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; peremptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; peremptory amendment at 22 Ill. Reg. 7320, effective April 10, 1998; peremptory amendment at 22 Ill. Reg. 7492, effective April 20, 1998; emergency amendment at 22 Ill. Reg. 12807, effective July 2, 1998, for a maximum of 150 days.

SUBPART A: NARRATIVE

**Section 310.110 Implementation of Pay Plan Changes for Fiscal Year 1999 1998**  
**EMERGENCY**

a) The rates of pay for all employees occupying positions subject to the Schedule of Salary Grades shall be as set out in Appendix B, Schedule of Salary



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

Grades -- Monthly Rates of Pay for Fiscal Year 1999 1998.

b) Employees--whose retirement formula rates were changed and are subject to the Schedule of Salary Grades and Out-of-State or Foreign Service Rates--shall receive a one-time lump-sum payment of \$565, except those employees on emergency or temporary appointment, and those employees who work less than 75% of the regular work schedule who will have the \$565 prorated on the basis of the employee's work schedule as a percent of the regular work schedule of the organizational unit. All employees whose retirement formula rates were not changed and are subject to the above shall receive a 3% increase, effective July 1, 1997.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days)

## Section 310.130 Effective Date

## EMERGENCY

The effective date of this Pay Plan Narrative (Subpart A), Schedule of Rates (Subpart B), and Schedule of Salary Grades (Appendix B), shall be July 1, 1998 1997.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days)

## SUBPART B: SCHEDULE OF RATES

## Section 310.290 Out-of-State or Foreign Service Rate

## EMERGENCY

The rate of pay for employees occupying positions which require payment in accordance with the economic conditions and social legislation of another state or foreign country. An adjustment may be made to the salary of an employee stationed in a foreign country to compensate for a change in the currency exchange rate. The Director of the Department of Central Management Services will, before approving an adjustment, consider the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.

## Title

Effective

Fiscal Year 1999 1999

Foreign Service Economic Development Executive I

3354-5988 3256-5814

Foreign Service Economic Development Executive II

4295-7848 4170-7619

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

Foreign Service Economic Development Representative

2850-5134 2767-4984

Office Administrator IV

2240-3876 2175-3651

(States Other Than California and New Jersey)

2532-4381 2458-4128

(CA, NJ)

Office Assistant (Foreign Service)

1771-2390 1719-2320

Office Associate

1894-2597 1839-2521

(States Other Than California and New Jersey)

2141-2935 2079-2850

(CA, NJ)

Office Coordinator

1967-2709 1909-2630

(States Other Than California and New Jersey)

2223-3063 2158-2973

(CA, NJ)

Public Service Administrator

3004-6565 2916-6189

(States Other Than California and New Jersey)

3396-7422 3297-6997

(CA, NJ)

Revenue Auditor I

2680-3828 2601-3717

(States Other Than California and New Jersey)

3029-4328 2941-4282

(CA, NJ)

Revenue Auditor II

3123-4524 3033-4392

(States Other Than California and New Jersey)

3531-5114 3428-4965

(CA, NJ)

Revenue Auditor III

3485-5081 3685-4932

(States Other Than California and New Jersey)

3939-5743 3709-5576

(CA, NJ)

Revenue Auditor Trainee

2233-3122 2160-3091

(States Other Than California and New Jersey)

2525-3530 2451-3427

(CA, NJ)

Revenue Tax Specialist I

2233-3122 2160-3091

(States Other Than California and New Jersey)

2525-3530 2451-3427

(CA, NJ)

Revenue Tax Specialist II

2443-3458 2371-3357

(States Other Than California and New Jersey)

2761-3909 2681-3795

(CA, NJ)

Revenue Tax Specialist Trainee

2042-2836 1983-2753

(States Other Than California and New Jersey)

2309-3206 42241-911



DEPARTMENT OF CENTRAL MANAGEMENT SERVICES  
NOTICE OF EMERGENCY AMENDMENTS

Senior Public Service Administrator  
(States Other Than California and New Jersey)  
(CA, NJ)  
4139-9726 4010-9168  
4679-10994 4542-103  
(Source: Amended by emergency rulemaking at 22 Ill. Reg. 12607,  
effective July 2, 1998, for a maximum of 150 days)  
SUBPART C: MERIT COMPENSATION SYSTEM

Section 310.450 Procedures for Determining Annual Merit Increases  
EMERGENCY

- a) An annual merit increase is an in-range salary adjustment for demonstrated performance.
- b) Eligibility for an annual merit increase shall be determined by the following conditions:
  - 1) Each employee will be eligible for a merit review after attaining 12 months creditable service. The employee's immediate supervisor shall prepare an Individual Development and Performance Evaluation form prior to the Performance Review Date, and discuss the results with the employee.
  - 2) Should the Individual Development and Performance review result in the employee not being eligible for an annual merit increase due to provisions of subsection 310.450(d), or should the employee's base rate be at the maximum rate of pay of the salary range assigned to the employee's position, the employee will not be eligible for an annual merit increase until 12 months of additional creditable service has been accrued.
- c) Based upon the results of the Individual Development and Performance Evaluation, the employees' immediate supervisor shall determine whether the employee's performance warrants or does not warrant an annual merit increase.
- d) ~~Until further amendment, merit increases are suspended for Merit Compensation employees, except those who are subject to the alternative retirement formula. The amount of an annual merit increase recommendation shall be determined for those employees subject to the alternative retirement formula by use of the Alternative Retirement Formula Merit Increase Guidechart of Section 310.540 if the employee's Individual Development and Performance Evaluation has on the Performance Review Date been evaluated at a Category 3 or higher level. An employee whose Individual Development and Performance Evaluation has on the Performance Review Date been evaluated at Category 4 shall not receive an increase in the present base salary. However, in no event is the resulting salary to be lower than the minimum or higher than the maximum rate of pay of the respective salary range assigned to the employee's position.~~
  - e) The employee's immediate supervisor shall prepare a Performance Certification and Salary Increase Recommendation form, indicating

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES  
NOTICE OF EMERGENCY AMENDMENTS

whether or not the employee is eligible for an annual merit increase and the amount thereof.  
f) The employee's immediate supervisor shall forward the Individual Development and Performance Evaluation records and Performance Certification and Salary Increase Recommendation records to the agency head or a designated authority for review and approval.  
g) Annual merit increases in pay shall become effective the first day of the month in which the employee's Performance Review Date occurs.  
(Source: Amended by emergency rulemaking at 22 Ill. Reg. 12607,  
effective July 2, 1998, for a maximum of 150 days)

Section 310.495 Broad-Band Pay Range Classes  
EMERGENCY

- Broad-band pay range classes shall be covered by all provisions of the Merit Compensation System except for the provisions identified in the following subsections:
- a) Salary Range -- The salary range for broad-band classes shall be as set out in Appendix G.
  - b) Entrance Salaries -- The Director or chairman of the Department, Board or Commission shall review the education, training and experience of an employee to be placed in the broad-band class and determine the employee's initial rate of pay.
    - 1) The salary assigned an employee shall take into account the duties, education, training and experience of the employee to assure reasonable pay equity among employees in the same class.
    - 2) A report of the resultant rate of pay shall be provided to the Director of the Department of Central Management Services on the form provided for that purpose.
    - 3) An entrance salary should not provide more than a 10% increase over the candidate's prior salary without the prior approval of the Director of the Department of Central Management Services.
  - c) Salary Adjustments -- Salary adjustments for positions in broad-band classes may be made by the employing agency where the employee has been given substantial additional responsibilities but will remain in the same classification. An increase of between 5% and 10% of current base salary may be given where the substantial additional responsibilities are documented on an updated job description and reflected on the organization chart.
  - d) Movement between Salary Systems -- Salary treatment on movement of an employee between one position in the broad-band class series and another position outside of the broad-band class series will be as recommended by the employing agency and approved by the Director of the Department of Central Management Services.
  - e) ~~Salary treatment upon initial placement of positions in the Senior Public Service Administrator Class -- incumbents of any position which was in salary ranges MG-12 through MG-19 prior to reclassification~~

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

into the Senior Public Service Administrator class will be placed into the range with no change in salary unless an increase is required to take the employee to the minimum salary for the appropriate level. Upon implementation of the Senior Public Service Administrator class, employees will be assigned to pay level 17 except that any employee whose current salary is more than \$63,000 or who is at a salary level of MC-15 or above prior to implementation will be assigned to level 17.

f) Salary Treatment upon Initial Placement of Positions in Other Service Administrator Class -- Incumbents of any position which was in salary ranges MC-08 through MC-11 prior to reclassification into the Public Service Administrator class will be placed into the range with no change in salary.

g) Salary Treatment upon Initial Placement of Positions in Other Occupational Broad-Band Classes -- For the purpose of establishing salary treatment upon initial placement of positions, it is necessary to determine the "lowest corresponding Merit Compensation grade." The Merit Compensation range with a minimum salary closest to, but not lower than, that of the broad-band range minimum is known as the "lowest corresponding Merit Compensation grade."

1) The incumbent of a position with a current salary range maximum equal to or greater than the maximum of the "lowest corresponding Merit Compensation grade" will be placed in the broad-band range with no change in salary.

2) The incumbent of a position with a current salary range maximum less than the maximum of the "lowest corresponding Merit Compensation grade" will be placed in the broad-band range with a 5% increase in current base salary. However, in no event shall the resulting salary be lower than the minimum or higher than the maximum rate of the new salary range. The creditable service date of an employee will not be changed unless an increase of 10% or greater is provided to move the employee to the minimum of the new range.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days)

Section 310.530 Implementation  
EMERGENCY

- a) The salary schedule for the Merit Compensation System for Fiscal Year 1999 1998 will continue as set forth in Appendix D of the Pay Plan.
- b) The Merit Increase Guidechart for Fiscal Year 1999 1998 as set forth in Section 310.540 of the Pay Plan is modified to suspend merit increases until further amendment, except for those employees subject to the alternative retirement formula whose retirement formula rates were not changed. The Alternative Merit Increase Guidechart in Section 310.540 will apply for these alternative retirement formula employees.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

c) Employees subject to the Merit Compensation System shall receive a one-time lump-sum payment of \$565, except those employees subject to the alternative retirement formula, those employees on emergency or temporary appointment, and those employees who work less than 75% of the regular work schedule who will have the \$565 prorated on the basis of the employee's work schedule as a percent of the regular work schedule of the organizational unit.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days)

Section 310.540 Annual Merit Increase Guidechart for Fiscal Year 1999 1998  
EMERGENCY

Until further amendment, merit increases are suspended for all Merit Compensation employees other than those subject to the alternative retirement formula, effective July 17, 1997.

The Merit Increase Guidechart for alternative retirement formula employees only is as set forth below:

| Category   | Definition                | Increase       |
|------------|---------------------------|----------------|
| Category 1 | Exceptional               | 0% to 5% \$125 |
| Category 2 | Accomplished              | 0% to 3% \$125 |
| Category 3 | Acceptable                | 0% to 3%       |
| Category 4 | Unacceptable              | \$0            |
| Category 1 | Exceptional               | 0% to 6%       |
| Category 2 | Accomplished/Satisfactory | 0% to 4%       |
| Category 3 | Less Than Satisfactory    | 0%             |

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days)

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

**Section 310.APPENDIX B Schedule of Salary Grades -- Monthly Rates of Pay for**  
**Fiscal Year 1999 1998**  
**EMERGENCY**

| Salary Grade | Step 1a | Step 1b | Step 1c | Step 1 | Step 2 | Step 3 | Step 4 | Step 5 | Step 6 | Step 7 |
|--------------|---------|---------|---------|--------|--------|--------|--------|--------|--------|--------|
| 1            | 1323    | 1363    | 1404    | 1446   | 1490   | 1531   | 1575   | 1625   | 1668   | 1746   |
| 2            | 1364    | 1405    | 1447    | 1490   | 1531   | 1575   | 1627   | 1674   | 1720   | 1799   |
| 3            | 1401    | 1443    | 1486    | 1531   | 1575   | 1628   | 1677   | 1724   | 1774   | 1865   |
| 4            | 1441    | 1484    | 1529    | 1575   | 1628   | 1681   | 1728   | 1787   | 1835   | 1930   |
| 5            | 1490    | 1535    | 1581    | 1628   | 1683   | 1739   | 1794   | 1847   | 1901   | 1995   |
| 6            | 1540    | 1586    | 1634    | 1683   | 1740   | 1796   | 1858   | 1916   | 1978   | 2078   |
| 7            | 1592    | 1640    | 1689    | 1740   | 1799   | 1863   | 1926   | 1989   | 2055   | 2165   |
| 8            | 1647    | 1696    | 1747    | 1799   | 1868   | 1935   | 2009   | 2073   | 2144   | 2258   |
| 9            | 1710    | 1761    | 1814    | 1868   | 1938   | 2014   | 2086   | 2164   | 2238   | 2356   |
| 10           | 1776    | 1829    | 1884    | 1941   | 2025   | 2098   | 2178   | 2255   | 2336   | 2466   |
| 11           | 1854    | 1910    | 1967    | 2026   | 2110   | 2188   | 2277   | 2362   | 2442   | 2579   |
| 12           | 1942    | 2000    | 2060    | 2122   | 2212   | 2295   | 2391   | 2477   | 2572   | 2715   |
| 13           | 2026    | 2087    | 2150    | 2215   | 2307   | 2406   | 2504   | 2598   | 2698   | 2851   |
| 14           | 2124    | 2188    | 2254    | 2322   | 2421   | 2522   | 2636   | 2736   | 2842   | 3007   |
| 15           | 2218    | 2285    | 2354    | 2425   | 2537   | 2647   | 2755   | 2868   | 2975   | 3152   |
| 16           | 2330    | 2400    | 2472    | 2546   | 2664   | 2785   | 2902   | 3022   | 3144   | 3329   |
| 17           | 2444    | 2517    | 2593    | 2671   | 2799   | 2928   | 3051   | 3175   | 3304   | 3501   |
| 18           | 2576    | 2653    | 2733    | 2815   | 2952   | 3089   | 3229   | 3362   | 3496   | 3704   |
| 19           | 2716    | 2797    | 2881    | 2967   | 3119   | 3265   | 3417   | 3561   | 3710   | 3934   |
| 20           | 2870    | 2956    | 3045    | 3136   | 3293   | 3448   | 3611   | 3767   | 3922   | 4162   |
| 21           | 3030    | 3121    | 3215    | 3311   | 3481   | 3649   | 3819   | 3993   | 4159   | 4418   |

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

|    |      |      |      |      |      |      |      |      |      |      |
|----|------|------|------|------|------|------|------|------|------|------|
| 22 | 3203 | 3299 | 3398 | 3500 | 3682 | 3863 | 4044 | 4231 | 4409 | 4682 |
| 23 | 3398 | 3500 | 3605 | 3713 | 3910 | 4110 | 4304 | 4503 | 4699 | 4993 |
| 1  | 1204 | 1323 | 1404 | 1447 | 1486 | 1529 | 1570 | 1619 | 1695 |      |
| 2  | 1324 | 1405 | 1447 | 1486 | 1529 | 1580 | 1625 | 1674 | 1747 |      |
| 3  | 1360 | 1401 | 1443 | 1486 | 1529 | 1581 | 1628 | 1674 | 1720 |      |
| 4  | 1399 | 1441 | 1484 | 1529 | 1581 | 1632 | 1678 | 1735 | 1780 |      |
| 5  | 1447 | 1490 | 1535 | 1581 | 1634 | 1688 | 1742 | 1793 | 1846 |      |
| 6  | 1495 | 1540 | 1586 | 1634 | 1689 | 1744 | 1804 | 1860 | 1920 |      |
| 7  | 1546 | 1592 | 1640 | 1689 | 1747 | 1809 | 1870 | 1931 | 1995 |      |
| 8  | 1599 | 1647 | 1696 | 1747 | 1802 | 1879 | 1950 | 2013 | 2080 |      |
| 9  | 1660 | 1710 | 1761 | 1814 | 1882 | 1955 | 2025 | 2101 | 2179 |      |
| 10 | 1724 | 1776 | 1829 | 1884 | 1966 | 2037 | 2115 | 2189 | 2268 |      |
| 11 | 1800 | 1854 | 1910 | 1967 | 2049 | 2124 | 2211 | 2293 | 2371 |      |
| 12 | 1885 | 1942 | 2000 | 2060 | 2148 | 2228 | 2321 | 2405 | 2497 |      |
| 13 | 1967 | 2026 | 2087 | 2150 | 2240 | 2336 | 2431 | 2522 | 2619 |      |
| 14 | 2062 | 2124 | 2188 | 2254 | 2350 | 2449 | 2559 | 2656 | 2759 |      |
| 15 | 2153 | 2218 | 2285 | 2354 | 2463 | 2570 | 2675 | 2784 | 2888 |      |
| 16 | 2262 | 2330 | 2400 | 2472 | 2586 | 2704 | 2817 | 2934 | 3052 |      |
| 17 | 2373 | 2444 | 2517 | 2593 | 2717 | 2843 | 2962 | 3083 | 3208 |      |
| 18 | 2501 | 2576 | 2653 | 2733 | 2866 | 2999 | 3135 | 3264 | 3394 |      |
| 19 | 2637 | 2716 | 2797 | 2881 | 3020 | 3170 | 3317 | 3457 | 3608 |      |
| 20 | 2786 | 2870 | 2956 | 3045 | 3197 | 3348 | 3506 | 3657 | 3808 |      |
| 21 | 2942 | 3030 | 3121 | 3215 | 3380 | 3543 | 3708 | 3877 | 4038 |      |
| 22 | 3110 | 3203 | 3299 | 3398 | 3575 | 3750 | 3926 | 4108 | 4284 |      |



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

29 3299 3390 3500 3605 3796 3990 4179 4372 4562{  
4840  
Schedule of Salary Grades (Alternative Retirement Formula only) - Monthly Rates  
of pay for Fiscal Year 1999 1998

| Salary Grade | Step 1a | Step 1b | Step 1c | Step 1 | Step 2 | Step 3 | Step 4 | Step 5 | Step 6 | Step 7 |
|--------------|---------|---------|---------|--------|--------|--------|--------|--------|--------|--------|
| 1a           | 1363    | 1404    | 1446    | 1489   | 1535   | 1577   | 1622   | 1674   | 1718   | 1798   |
| 2a           | 1405    | 1447    | 1490    | 1535   | 1577   | 1622   | 1676   | 1724   | 1772   | 1853   |
| 3a           | 1443    | 1486    | 1531    | 1577   | 1622   | 1677   | 1727   | 1776   | 1827   | 1921   |
| 4a           | 1484    | 1529    | 1575    | 1622   | 1677   | 1731   | 1780   | 1841   | 1890   | 1988   |
| 5a           | 1535    | 1581    | 1628    | 1677   | 1733   | 1791   | 1848   | 1902   | 1958   | 2055   |
| 6a           | 1586    | 1634    | 1683    | 1733   | 1792   | 1850   | 1914   | 1973   | 2037   | 2140   |
| 7a           | 1640    | 1689    | 1740    | 1792   | 1853   | 1919   | 1984   | 2049   | 2117   | 2230   |
| 8a           | 1696    | 1747    | 1799    | 1853   | 1924   | 1993   | 2069   | 2135   | 2208   | 2326   |
| 9a           | 1761    | 1814    | 1868    | 1924   | 1996   | 2074   | 2149   | 2229   | 2305   | 2427   |
| 10a          | 1829    | 1884    | 1941    | 1999   | 2086   | 2161   | 2243   | 2323   | 2406   | 2540   |
| 11a          | 1910    | 1967    | 2026    | 2087   | 2173   | 2254   | 2345   | 2433   | 2515   | 2656   |
| 12a          | 2000    | 2060    | 2122    | 2186   | 2278   | 2364   | 2463   | 2551   | 2649   | 2796   |
| 13a          | 2087    | 2150    | 2215    | 2281   | 2376   | 2478   | 2579   | 2676   | 2779   | 2937   |
| 14a          | 2188    | 2254    | 2322    | 2392   | 2494   | 2598   | 2715   | 2818   | 2927   | 3097   |
| 15a          | 2285    | 2354    | 2425    | 2498   | 2613   | 2726   | 2830   | 2954   | 3064   | 3247   |
| 16a          | 2400    | 2472    | 2546    | 2622   | 2744   | 2869   | 2989   | 3113   | 3238   | 3429   |
| 17a          | 2517    | 2593    | 2671    | 2751   | 2883   | 3016   | 3143   | 3270   | 3403   | 3606   |
| 18a          | 2653    | 2733    | 2815    | 2899   | 3041   | 3182   | 3326   | 3463   | 3601   | 3815   |
| 19a          | 2797    | 2881    | 2967    | 3056   | 3213   | 3363   | 3520   | 3668   | 3821   | 4052   |
| 20a          | 2956    | 3045    | 3136    | 3230   | 3392   | 3551   | 3719   | 3880   | 4040   | 4287   |

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

|     |      |      |      |      |      |      |      |      |      |      |
|-----|------|------|------|------|------|------|------|------|------|------|
| 21a | 3121 | 3215 | 3311 | 3410 | 3585 | 3758 | 3934 | 4113 | 4284 | 4551 |
| 22a | 3299 | 3398 | 3500 | 3605 | 3792 | 3979 | 4165 | 4358 | 4541 | 4822 |
| 23a | 3500 | 3605 | 3713 | 3824 | 4027 | 4233 | 4433 | 4638 | 4840 | 5143 |
| 1a  | 1323 | 1363 | 1404 | 1446 | 1490 | 1531 | 1575 | 1625 | 1680 | 1746 |
| 2a  | 1364 | 1405 | 1447 | 1490 | 1531 | 1575 | 1627 | 1674 | 1720 | 1799 |
| 3a  | 1401 | 1443 | 1486 | 1531 | 1575 | 1620 | 1677 | 1724 | 1774 | 1865 |
| 4a  | 1441 | 1484 | 1529 | 1575 | 1620 | 1661 | 1720 | 1767 | 1835 | 1930 |
| 5a  | 1490 | 1535 | 1581 | 1620 | 1663 | 1709 | 1794 | 1847 | 1901 | 1995 |
| 6a  | 1540 | 1586 | 1634 | 1683 | 1740 | 1796 | 1850 | 1916 | 1970 | 2070 |
| 7a  | 1592 | 1640 | 1689 | 1740 | 1799 | 1863 | 1926 | 1989 | 2052 | 2165 |
| 8a  | 1647 | 1696 | 1747 | 1799 | 1860 | 1935 | 2009 | 2073 | 2144 | 2258 |
| 9a  | 1710 | 1761 | 1814 | 1860 | 1930 | 2014 | 2086 | 2164 | 2230 | 2356 |
| 10a | 1776 | 1829 | 1884 | 1941 | 2025 | 2090 | 2170 | 2255 | 2336 | 2466 |
| 11a | 1854 | 1910 | 1967 | 2026 | 2110 | 2180 | 2277 | 2362 | 2442 | 2579 |
| 12a | 1942 | 2000 | 2060 | 2122 | 2212 | 2295 | 2391 | 2477 | 2572 | 2715 |
| 13a | 2026 | 2087 | 2150 | 2215 | 2307 | 2406 | 2504 | 2590 | 2690 | 2835 |
| 14a | 2124 | 2180 | 2254 | 2322 | 2421 | 2522 | 2636 | 2736 | 2842 | 2997 |
| 15a | 2210 | 2285 | 2354 | 2425 | 2537 | 2647 | 2755 | 2860 | 2975 | 3132 |
| 16a | 2330 | 2400 | 2472 | 2546 | 2664 | 2785 | 2902 | 3022 | 3144 | 3329 |
| 17a | 2444 | 2517 | 2593 | 2671 | 2799 | 2920 | 3051 | 3175 | 3304 | 3506 |
| 18a | 2576 | 2653 | 2733 | 2815 | 2952 | 3089 | 3229 | 3362 | 3496 | 3704 |
| 19a | 2716 | 2797 | 2881 | 2967 | 3119 | 3265 | 3417 | 3561 | 3703 | 3934 |
| 20a | 2870 | 2956 | 3045 | 3136 | 3293 | 3440 | 3611 | 3767 | 3922 | 4162 |
| 21a | 3030 | 3121 | 3215 | 3311 | 3481 | 3649 | 3819 | 3993 | 4159 | 4410 |

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

|     |      |      |      |      |      |      |      |      |             |
|-----|------|------|------|------|------|------|------|------|-------------|
| 22a | 3203 | 3299 | 3390 | 3500 | 3602 | 3603 | 4044 | 4231 | 4409-BQ4602 |
| 23a | 3306 | 3500 | 3605 | 3713 | 3910 | 4110 | 4304 | 4503 | 4699-BQ4993 |

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Section 310.APPENDIX C Medical Administrator Rates for Fiscal Year 1999 1998  
EMERGENCY

| Title                                 | Minimum<br>Salary | Midpoint<br>Salary | Maximum<br>Salary |
|---------------------------------------|-------------------|--------------------|-------------------|
| Medical Administrator I,<br>Option C  | 7,050             | 8,577              | 10,104            |
| Medical Administrator I,<br>Option D  | 7,873             | 9,443              | 11,013            |
| Medical Administrator II,<br>Option C | 7,618             | 9,173              | 10,728            |
| Medical Administrator II,<br>Option D | 8,749             | 10,372             | 11,995            |
| Medical Administrator III             | 9,059             | 10,838             | 12,617            |
| Medical Administrator IV              | 9,206             | 10,985             | 12,764            |
| Medical Administrator V               | 9,354             | 11,135             | 12,916            |
| Medical-Administrator-I7<br>Option-C  | 67045             | 87327              | 97009             |
| Medical-Administrator-I7<br>Option-B  | 77644             | 97160              | 107692            |
| Medical-Administrator-II7<br>Option-C | 77996             | 87906              | 107416            |
| Medical-Administrator-II7<br>Option-B | 87494             | 107070             | 117646            |
| Medical-Administrator-III             | 87795             | 107522             | 127249            |
| Medical-Administrator-IV              | 87938             | 107665             | 127392            |
| Medical-Administrator-V               | 97002             | 107811             | 127540            |

The rates of pay for physicians occupying or appointed to a position in the Medical Administrator classes shall be as listed in the above schedule. All provisions of Subpart C of the Pay Plan, Merit Compensation System will apply to the Medical Administrator positions.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 12607,

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

effective July 2, 1998, for a maximum of 150 days)

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

Section 310.APPENDIX D Merit Compensation System Salary Schedule for Fiscal  
Year 1999 1998  
EMERGENCY

| Salary<br>Range | Minimum<br>Salary | Midpoint<br>Salary | Maximum<br>Salary |
|-----------------|-------------------|--------------------|-------------------|
| MC 01           | 1,867             | 2,530              | 3,193             |
| MC 02           | 1,948             | 2,659              | 3,370             |
| MC 03           | 2,041             | 2,813              | 3,585             |
| MC 04           | 2,134             | 2,945              | 3,756             |
| MC 05           | 2,240             | 3,116              | 3,992             |
| MC 06           | 2,354             | 3,275              | 4,196             |
| MC 07           | 2,478             | 3,472              | 4,466             |
| MC 08           | 2,612             | 3,683              | 4,754             |
| MC 09           | 2,760             | 3,888              | 5,016             |
| MC 10           | 2,916             | 4,141              | 5,366             |
| MC 11           | 3,080             | 4,396              | 5,712             |
| MC 12           | 3,270             | 4,691              | 6,112             |
| MC 13           | 3,492             | 5,014              | 6,536             |
| MC 14           | 3,735             | 5,383              | 7,031             |
| MC 15           | 4,009             | 5,771              | 7,533             |
| MC 16           | 4,291             | 6,201              | 8,111             |
| MC 17           | 4,631             | 6,692              | 8,753             |
| MC 18           | 4,991             | 7,283              | 9,475             |
| MC 19           | 5,391             | 7,987              | 10,283            |
| ME-01           | 17011             | 27411              | 37009             |
| ME-02           | 17091             | 27531              | 37175             |
| ME-03           | 17902             | 27602              | 37370             |
| ME-04           | 27072             | 27866              | 37540             |
| ME-05           | 27175             | 27968              | 37761             |
| ME-06           | 27205             | 37119              | 37953             |
| ME-07           | 27406             | 37308              | 47210             |
| ME-08           | 27536             | 37509              | 47482             |
| ME-09           | 27680             | 37704              | 47720             |
| ME-10           | 27831             | 37944              | 57057             |
| ME-11           | 27990             | 47187              | 57304             |
| ME-12           | 37175             | 47467              | 57759             |
| ME-13           | 37390             | 47775              | 67160             |
| ME-14           | 37626             | 57136              | 67626             |
| ME-15           | 37892             | 57496              | 77100             |
| ME-16           | 47166             | 57905              | 77644             |
| ME-17           | 47496             | 67373              | 87250             |
| ME-18           | 47846             | 67653              | 87460             |
| ME-19           | 57234             | 67945              | 87656             |

Merit--Compensation--System--Salary--Schedule--(Alternative--Retirement--Formula



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

## only}---Monthly-Rates-of-Pay-for-Fiscal-Year-1998

| Salary Range | Minimum Salary | Midpoint Salary | Maximum Salary |
|--------------|----------------|-----------------|----------------|
| ME-01a       | 17013          | 27456           | 37099          |
| ME-02a       | 17091          | 27501           | 37271          |
| ME-03a       | 17082          | 27731           | 37400          |
| ME-04a       | 27072          | 27859           | 37646          |
| ME-05a       | 27175          | 37025           | 37075          |
| ME-06a       | 27205          | 37179           | 47073          |
| ME-07a       | 27406          | 37371           | 47336          |
| ME-08a       | 27536          | 37576           | 47616          |
| ME-09a       | 27600          | 37775           | 47070          |
| ME-10a       | 27031          | 47020           | 57209          |
| ME-11a       | 27990          | 47260           | 57546          |
| ME-12a       | 37175          | 47554           | 57933          |
| ME-13a       | 37390          | 47860           | 67346          |
| ME-14a       | 37226          | 57226           | 67026          |
| ME-15a       | 37092          | 57603           | 77314          |
| ME-16a       | 47166          | 67020           | 77074          |
| ME-17a       | 47496          | 67497           | 87490          |
| ME-18a       | 47046          | 67700           | 87714          |
| ME-19a       | 57234          | 77075           | 87916          |

(Source: Amended by emergency rulemaking at 22 Ill. Reg. effective July 2, 1998, for a maximum of 150 days)

12630

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

## Section 310.APPENDIX G Broad-Band Pay Range Classes Salary Schedule for Fiscal Year 1998

| Title                               | Minimum Salary | Maximum Salary |
|-------------------------------------|----------------|----------------|
| Human Resources Representative      | 1,948          | 3,755          |
| Human Resources Specialist          | 2,240          | 4,466          |
| Public Service Administrator        | 2,612          | 5,709          |
| Senior Public Service Administrator | 3,599          | 8,457          |
| Human-Resources-Representative      | 17091          | 37540          |
| Human-Resources-Specialist          | 27175          | 47210          |
| Public-Service-Administrator        | 27536          | 57302          |
| Senior-Public-Service-Administrator | 37494          | 67097          |
| Level-I                             |                |                |
| Senior-Public-Service-Administrator | 47292          | 77972          |
| Level-II                            |                |                |

## Broad-Band-Pay-Range--Classes-Salary-Schedule--(Alternative-Retirement-Formula only)---Monthly-Rates-of-Pay-for-Fiscal-Year-1998

| Title                               | Minimum Salary | Maximum Salary |
|-------------------------------------|----------------|----------------|
| Human-Resources-Representative      | 17091          | 37646          |
| Human-Resources-Specialist          | 27175          | 47336          |
| Public-Service-Administrator        | 27536          | 57543          |
| Senior-Public-Service-Administrator | 37494          | 67200          |
| Level-I                             |                |                |
| Senior-Public-Service-Administrator | 47292          | 87211          |
| Level-II                            |                |                |

(Source: Amended by emergency rulemaking at 22 Ill. Reg. effective July 2, 1998, for a maximum of 150 days)

12631

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

1) Heading of the Part: Standard Procurement2) Code Citation: 44 Ill. Adm. Code 13) Section Numbers: Emergency Action:

1.100 Repealed  
1.110 Repealed  
1.120 Repealed  
1.130 Repealed  
1.200 Repealed  
1.210 Repealed  
1.220 Repealed  
1.230 Repealed  
1.240 Repealed  
1.250 Repealed  
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1.340 Repealed  
1.350 Repealed  
1.400 Repealed  
1.410 Repealed  
1.420 Repealed  
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1.510 Repealed  
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1.740 Repealed  
1.750 Repealed  
1.760 Repealed  
1.800 Repealed  
1.810 Repealed  
1.820 Repealed  
1.830 Repealed  
1.840 Repealed

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

1.900 Repealed  
1.910 Repealed  
1.920 Repealed  
1.930 Repealed  
1.940 Repealed  
1.950 Repealed  
1.960 Repealed  
1.1000 Repealed  
1.1010 Repealed  
1.1020 Repealed  
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1.1120 Repealed  
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1.1170 Repealed  
1.1180 Repealed  
1.1190 Repealed  
1.1200 Repealed  
1.1210 Repealed  
1.1300 Repealed  
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1.1500 Repealed  
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1.1620 Repealed  
1.1630 Repealed  
1.1640 Repealed  
1.1650 Repealed  
1.1700 Repealed  
1.1710 Repealed

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

1.1720 Repealed  
1.1730 Repealed  
1.1740 Repealed  
1.1800 Repealed  
1.1810 Repealed  
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1.1900 Repealed  
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1.1920 Repealed  
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1.1990 Repealed  
1.2000 Repealed  
1.2010 Repealed  
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1.2100 Repealed  
1.2110 Repealed  
1.2120 Repealed  
1.2130 Repealed  
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1.2240 Repealed  
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1.2460 Repealed  
1.2470 Repealed

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

- 4) Statutory Authority: Public Act 90-572 repeals the Illinois Purchasing Act [30 ILCS 505], the State Printing Contracts Act [30 ILCS 515] and the State Paper Purchasing Act [30 ILCS 510], the main laws under which these rules were promulgated. Public Act 90-572 requires rulemaking to implement the new Illinois Procurement Code [5 ILCS 500].
- 5) Effective Date of Repealer: July 1, 1998
- 6) If this emergency rule is to expire before end of the 150-day period, please specify the date on which it is to expire: Not applicable
- 7) Date Filed in Agency's Principal Office: July 1, 1998
- 8) Reason for Emergency: There was not sufficient time to develop proposed rules that could be processed through normal rulemaking and have the rules effective July 1, 1998.
- 9) A Complete Description of the Subjects and Issues Involved: Repeal of Standard Procurement Rules (44 Ill. Adm. Code 1). The emergency repealer is identical to those proposed in 22 Ill. Reg. 8067.
- 10) Are there any proposed amendments to this Part pending? Yes
- | Section Numbers | Proposed Action | Illinois Register Citation |
|-----------------|-----------------|----------------------------|
| 1.100           | Repealed        | 22 Ill. Reg. 8067          |
| 1.110           | Repealed        | 22 Ill. Reg. 8067          |
| 1.120           | Repealed        | 22 Ill. Reg. 8067          |
| 1.130           | Repealed        | 22 Ill. Reg. 8067          |
| 1.200           | Repealed        | 22 Ill. Reg. 8067          |
| 1.210           | Repealed        | 22 Ill. Reg. 8067          |
| 1.220           | Repealed        | 22 Ill. Reg. 8067          |
| 1.230           | Repealed        | 22 Ill. Reg. 8067          |
| 1.240           | Repealed        | 22 Ill. Reg. 8067          |
| 1.250           | Repealed        | 22 Ill. Reg. 8067          |
| 1.300           | Repealed        | 22 Ill. Reg. 8067          |
| 1.310           | Repealed        | 22 Ill. Reg. 8067          |
| 1.320           | Repealed        | 22 Ill. Reg. 8067          |
| 1.330           | Repealed        | 22 Ill. Reg. 8067          |
| 1.340           | Repealed        | 22 Ill. Reg. 8067          |
| 1.350           | Repealed        | 22 Ill. Reg. 8067          |
| 1.400           | Repealed        | 22 Ill. Reg. 8067          |
| 1.410           | Repealed        | 22 Ill. Reg. 8067          |
| 1.420           | Repealed        | 22 Ill. Reg. 8067          |
| 1.500           | Repealed        | 22 Ill. Reg. 8067          |
| 1.510           | Repealed        | 22 Ill. Reg. 8067          |
| 1.515           | Repealed        | 22 Ill. Reg. 8067          |
| 1.520           | Repealed        | 22 Ill. Reg. 8067          |
| 1.530           | Repealed        | 22 Ill. Reg. 8067          |





## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

|        |          |                   |
|--------|----------|-------------------|
| 1.2230 | Repealed | 22 Ill. Reg. 8067 |
| 1.2235 | Repealed | 22 Ill. Reg. 8067 |
| 1.2240 | Repealed | 22 Ill. Reg. 8067 |
| 1.2250 | Repealed | 22 Ill. Reg. 8067 |
| 1.2300 | Repealed | 22 Ill. Reg. 8067 |
| 1.2310 | Repealed | 22 Ill. Reg. 8067 |
| 1.2320 | Repealed | 22 Ill. Reg. 8067 |
| 1.2330 | Repealed | 22 Ill. Reg. 8067 |
| 1.2340 | Repealed | 22 Ill. Reg. 8067 |
| 1.2350 | Repealed | 22 Ill. Reg. 8067 |
| 1.2360 | Repealed | 22 Ill. Reg. 8067 |
| 1.2400 | Repealed | 22 Ill. Reg. 8067 |
| 1.2410 | Repealed | 22 Ill. Reg. 8067 |
| 1.2420 | Repealed | 22 Ill. Reg. 8067 |
| 1.2430 | Repealed | 22 Ill. Reg. 8067 |
| 1.2440 | Repealed | 22 Ill. Reg. 8067 |
| 1.2450 | Repealed | 22 Ill. Reg. 8067 |
| 1.2460 | Repealed | 22 Ill. Reg. 8067 |
| 1.2470 | Repealed | 22 Ill. Reg. 8067 |

11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government. The existing rules regarding joint purchasing are being repealed. Revised rules will replace the repealed rule.

12) Information and questions regarding this repealer shall be directed to:

Stephen W. Seiple  
720 Stratton Office Building  
Springfield IL 62706  
217/782-9669

The full text of the Emergency Repealer begins on the next page:

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND  
PROPERTY MANAGEMENT  
SUBTITLE A: PROCUREMENT AND CONTRACT PROVISIONS  
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## PART 1

STANDARD PROCUREMENT (REPEALED)

## SUBPART A: GENERAL

Section  
1.100 Authority  
EMERGENCY  
1.110 Policy  
EMERGENCY  
1.120 Applicability  
EMERGENCY  
1.130 Definitions  
EMERGENCY

## SUBPART B: APPROVAL OF PROCUREMENT RULES

Section  
1.200 Approval Required  
EMERGENCY  
1.210 When Approved  
EMERGENCY  
1.220 Filing of Rules  
EMERGENCY  
1.230 Standard Form of Rules  
EMERGENCY  
1.240 Non-Standard Form of Rules  
EMERGENCY  
1.250 Length of Approval  
EMERGENCY

## SUBPART C: PROCUREMENT RESPONSIBILITY

Section  
1.300 General  
EMERGENCY  
1.310 Department of Central Management Services  
EMERGENCY  
1.320 Department of Transportation  
EMERGENCY  
1.330 Capital Development Board  
EMERGENCY

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

- 1.340 Procuring Agency Responsibility  
EMERGENCY  
 1.350 Delegation of Procurement Authority  
EMERGENCY

## SUBPART D: SOURCES OF SUPPLY

- Section  
 1.400 Open Source of Supply  
EMERGENCY  
 1.410 Special Sources  
EMERGENCY  
 1.420 Directed Source  
EMERGENCY

## SUBPART E: METHODS OF PROCUREMENT

- Section  
 1.500 General  
EMERGENCY  
 1.510 Competition Encouraged  
EMERGENCY  
 1.515 Competitive Procurement and Procedure  
EMERGENCY  
 1.520 Source Selection  
EMERGENCY  
 1.530 Statutory Circumstances Allowing Negotiation  
EMERGENCY  
 1.540 Negotiation After Award  
EMERGENCY  
 1.550 Multiple Awards  
EMERGENCY  
 1.560 Pre-Emption  
EMERGENCY

## SUBPART F: PUBLICIZING PROCUREMENT ACTIONS

- Section  
 1.600 Official State Newspaper  
EMERGENCY  
 1.610 Advertising Required  
EMERGENCY  
 1.620 Re-Advertisement  
EMERGENCY  
 1.630 Direct Solicitation  
EMERGENCY

## SUBPART G: INVITATIONS FOR BID AND RESPONSE

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

- Section  
 1.700 Bid List  
EMERGENCY  
 1.710 Contents of Invitations for Bids  
EMERGENCY  
 1.720 Time and Place to Submit Bids  
EMERGENCY  
 1.730 Submission of Bids  
EMERGENCY  
 1.740 Change or Withdrawal of Bid  
EMERGENCY  
 1.750 Submission Binding  
EMERGENCY  
 1.760 Bid Reservations  
EMERGENCY

## SUBPART H: RESPONSIBILITY OF BIDDER

- Section  
 1.800 Bidder Must be Responsible  
EMERGENCY  
 1.810 Determination by Procuring Agency  
EMERGENCY  
 1.820 Proof of Responsibility  
EMERGENCY  
 1.830 Standards of Responsibility  
EMERGENCY  
 1.840 New Bidders  
EMERGENCY

## SUBPART I: BID AND PERFORMANCE SECURITY

- Section  
 1.900 Security Required  
EMERGENCY  
 1.910 Form of Security  
EMERGENCY  
 1.920 Amount  
EMERGENCY  
 1.930 Subsequent Requirement  
EMERGENCY  
 1.940 When Allowed or Required  
EMERGENCY  
 1.950 Annual Security  
EMERGENCY  
 1.960 Return of Security  
EMERGENCY



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

## SUBPART J: SPECIFICATIONS AND SAMPLES

Section  
1.1000 Specifications Required  
EMERGENCY  
1.1010 Reference Specifications  
EMERGENCY  
1.1020 Brand Name or Equal  
EMERGENCY  
1.1030 Proven Products  
EMERGENCY  
1.1040 State Required Samples  
EMERGENCY  
1.1050 Representative Sample  
EMERGENCY  
1.1060 Payment for Samples  
EMERGENCY  
1.1070 Product Demonstration  
EMERGENCY

## SUBPART K: AWARD OF CONTRACT

Section  
1.1100 Bid Opening  
EMERGENCY  
1.1110 Recording  
EMERGENCY  
1.1120 Award  
EMERGENCY  
1.1130 Alternate Bids  
EMERGENCY  
1.1140 Supplementary Orders  
EMERGENCY  
1.1150 Delay in Award  
EMERGENCY  
1.1160 Cancellation of Invitation  
EMERGENCY  
1.1170 Notice of Cancellation  
EMERGENCY  
1.1180 Rejection of Individual Bids  
EMERGENCY  
1.1190 Minor Irregularities or Irregularities in Bids  
EMERGENCY  
1.1200 Time of Award  
EMERGENCY  
1.1210 Binding Contract  
EMERGENCY

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

## SUBPART L: MISTAKES IN BIDS

Section  
1.1300 General  
EMERGENCY  
1.1310 Apparent Clerical Mistake  
EMERGENCY  
1.1320 Other Mistakes Disclosed Before Award  
EMERGENCY  
1.1330 Disclosure of Mistakes After Award  
EMERGENCY  
1.1340 Processing Mistakes  
EMERGENCY  
1.1350 Procedural Error by State  
EMERGENCY

## SUBPART M: CONTRACT TERMS

Section  
1.1400 Terms and Conditions of Transactions  
EMERGENCY  
1.1410 Amendments  
EMERGENCY

## SUBPART N: CONTRACT PERIOD AND FISCAL FUNDING

Section  
1.1500 Fiscal Year Contracting  
EMERGENCY  
1.1510 Contracts Spanning Fiscal Years  
EMERGENCY  
1.1520 Fiscal Funding Termination Policy  
EMERGENCY  
1.1530 Preference in Funding  
EMERGENCY  
1.1540 Notice of Failure of Funding  
EMERGENCY

## SUBPART O: CONTRACT PRICING AND FINANCING

Section  
1.1600 Allowable Price Structure  
EMERGENCY  
1.1610 Firm Pricing  
EMERGENCY  
1.1620 All Costs Included  
EMERGENCY  
1.1630 Maximum Price for Printing

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

- EMERGENCY  
 1.1640 Contract Financing  
EMERGENCY  
 1.1650 Prevailing Wage Required  
EMERGENCY
- SUBPART P: PERFORMANCE

- Section  
 1.1700 Full Compliance  
EMERGENCY  
 1.1710 Deliveries  
EMERGENCY  
 1.1720 Inspection  
EMERGENCY  
 1.1730 Assignments by Successful Bidder  
EMERGENCY  
 1.1740 Submission of Invoice Vouchers  
EMERGENCY

## SUBPART Q: VENDOR COMPLAINTS

- Section  
 1.1800 Performance Monitoring  
EMERGENCY  
 1.1810 Initial Complaint  
EMERGENCY  
 1.1820 Written Complaint  
EMERGENCY  
 1.1830 Complaints to be Filed  
EMERGENCY  
 1.1840 Prompt Action Essential  
EMERGENCY  
 1.1850 Grounds for Complaint  
EMERGENCY  
 1.1860 Action by Receiving Agency  
EMERGENCY

## SUBPART R: TERMINATION OR RESCISSION OF CONTRACT BY STATE

- Section  
 1.1900 Cancellation for Breach of Contract  
EMERGENCY  
 1.1910 Cancellation for Fraud, Collusion, Illegality, Etc.  
EMERGENCY  
 1.1920 Withholding Monies to Compensate State for Damages  
EMERGENCY  
 1.1930 Damages  
EMERGENCY

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

## SUBPART S: SUSPENSION AND DEBARMENT

- Section  
 1.2000 Suspension  
EMERGENCY  
 1.2010 Terms of Suspension  
EMERGENCY  
 1.2020 Causes for Suspension  
EMERGENCY  
 1.2030 Debarment  
EMERGENCY  
 1.2040 Ineligible List  
EMERGENCY

## SUBPART T: PROTEST OR OBJECTIONS

- Section  
 1.2100 General  
EMERGENCY  
 1.2110 Time and Place for Protest or Objections  
EMERGENCY  
 1.2120 Suspension of Award  
EMERGENCY  
 1.2130 Evaluation of Protest or Objection  
EMERGENCY  
 1.2140 Additional Administrative Remedies  
EMERGENCY

## SUBPART U: SOCIOECONOMIC PROGRAMS

- Section  
 1.2200 General  
EMERGENCY  
 1.2210 Small Business  
EMERGENCY  
 1.2215 Minority and Female-Owned Business  
EMERGENCY  
 1.2220 Criteria for Small Business (Recodified)  
EMERGENCY  
 1.2225 Sheltered Workshops for the Disabled  
EMERGENCY  
 1.2230 Required Use (Recodified)  
EMERGENCY  
 1.2235 Procurement from Vendors with Supported Employees  
EMERGENCY  
 1.2240 Withdrawal of Set-Aside (Recodified)  
EMERGENCY  
 1.2250 Small Construction Business Advance Payment Set-Aside (Repealed)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY REPEALER

EMERGENCY

SUBPART V: JOINT PROCUREMENT AGREEMENTS

Section

1.2300 General

EMERGENCY

1.2310 State Use of Other Contracts

EMERGENCY

1.2320 Use of State Contracts

EMERGENCY

1.2330 No Agency Relationship

EMERGENCY

1.2340 Obligations of Participating Governmental Units

EMERGENCY

1.2350 Centralized Contracts - Estimated Quantities

EMERGENCY

1.2360 Centralized Contracts - Definite Quantities

EMERGENCY

SUBPART W: MISCELLANEOUS

Section

1.2400 Inspection and Audits

EMERGENCY

1.2410 No Rights Conferred

EMERGENCY

1.2420 Government Furnished Property

EMERGENCY

1.2430 Attempt to Influence Award

EMERGENCY

1.2440 Collusive Bids

EMERGENCY

1.2450 Identical Bids

EMERGENCY

1.2460 Proprietary Information

EMERGENCY

1.2470 Severability

EMERGENCY

AUTHORITY: Implementing and authorized by the Illinois Purchasing Act [30 ILCS 505]; the State Paper Purchasing Act [30 ILCS 510]; State Printing Contracts Act [30 ILCS 515]; the Minority and Female Business Enterprise Act [30 ILCS 575].

SOURCE: Adopted at 7 Ill. Reg. 100, effective December 17, 1982; amended at 7 Ill. Reg. 13481, effective October 4, 1983; amended at 7 Ill. Reg. 13844, effective October 12, 1983; codified at 8 Ill. Reg. 14941; Sections 1.2210,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY REPEALER

1.2220, 1.2230, 1.2240 recodified to Section 1.2210 at 9 Ill. Reg. 6118; amended at 10 Ill. Reg. 923, effective January 2, 1986; amended at 10 Ill. Reg. 18707, effective October 22, 1986; amended at 11 Ill. Reg. 7225, effective April 6, 1987; amended at 11 Ill. Reg. 7595, effective April 14, 1987; amended at 13 Ill. Reg. 17804, effective November 7, 1989; emergency amendment at 16 Ill. Reg. 13118, effective August 7, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 600, effective January 5, 1993; amended at 17 Ill. Reg. 14576, effective August 27, 1993; amended at 20 Ill. Reg. 9015, effective July 1, 1996; repealed by emergency rulemaking at 22 Ill. Reg. ~~12632~~, effective July 1, 1998, for a maximum of 150 days.

SUBPART A: GENERAL

Section 1.100 Authority

EMERGENCY

This Part is promulgated in accordance with Section 5 of the Illinois Purchasing Act (Ill. Rev. Stat. 1991, ch. 127, par. 132.5), Section 3 of the State Printing Contracts Act (Ill. Rev. Stat. 1991, ch. 127, par. 132.203), Section 67.01 of the Civil Administrative Code (Ill. Rev. Stat. 1991, ch. 127, par. 63b.13.1), and the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, pars. 1001-1 et seq.).

Section 1.110 Policy

EMERGENCY

All State procurements shall be accomplished in the most economic, expeditious and commercially reasonable manner that is in accordance with Illinois law and these and other applicable rules. This Part is promulgated to guide the procurement practices of State agencies. Operational interpretations are to be made in a flexible manner designed to secure the State's needs and protect its interests.

Section 1.120 Applicability

EMERGENCY

This Part applies to all procurement by or through delegation from the Department of Central Management Services and to all agencies adopting this Part. All State agencies, without exception, must adhere to the provision in this Part in regard to approval of procurement rules.

Section 1.130 Definitions

EMERGENCY

"Agency" - Unless otherwise specified or unless the context indicates another construction, agency means all departments, officers, commissions, boards, institutions and bodies politic and corporate of the State but does not mean the Board of Trustees of the University of



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

*Illinois, the Board of Trustees of Southern Illinois University, the Board of Governors of State Colleges and Universities, the Board of Regents, or municipalities and all other local governmental units.*

"Bid" - An offer made by a bidder in response to State request for Sealed Bids, Sealed Proposals or Negotiation.

"Bidder" - Any person who submits a bid. The term bidder may also, in appropriate context, refer to the successful bidder or to a vendor.

"Contracting Officer" - The person employed by an Ordering Agency to place orders from established contracts or to solicit bids as allowed by this Part.

"DCMS" - Means the Department of Central Management Services.

## Electronic Data Processing

"Equipment" - A machine or group of interconnected machines consisting of input, storage, computing control and output devices that use electronic circuitry in the main computing element to perform arithmetic and/or logical operations automatically by means of internally stored or externally controlled programmed instructions and associated storage media. Examples of electronic data processing (EDP) equipment include, but are not limited to: computer (CPU) mainframes and their peripheral input, output, storage, channel, and control devices; minicomputers, and their similar peripherals; distributed processors; data entry and inquiry devices; remote job entry devices; teleprocessing devices; (controllers, cathode ray tube and typewriter terminals, etc.); smallscale microprocessors, programmable terminals, personal) computers; and word processing and text processing devices, which are internally programmable, and/or have the capability of interconnection to other computer mainframes.

"Services" - EDP-related Data Entry Service, Consulting Services, Service Bureau Services, and Timesharing Services and equipment repair and maintenance.

"Data Entry Services" - Include, but are not limited to: keypunch, verification, key-to-disk, magnetic ink character recognition optical scanning, and on-line data entry work.

"Consulting Services" - Include, but are not limited to: programming, system design, software maintenance, EDP-related personal services, and EDP-related consulting.

"Service Bureau and Timesharing Services" - Include, but are not limited to: batch job processing, remote job entry, or inquiry, Computer Output Microfilm (COM), processing using public domain, proprietary, or turnkey software at a non-State government host or distributed processing computer installation, and those

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

consulting services necessary to transfer the User Agency's application to the Service Bureau.

"Associated Software" - Program modules and/or documentation which contain steps, instructions, and data for the purpose of controlling or operating EDP equipment. They may be prepackaged, or modifiable modules and/or documentation. They may require some developmental effort by the vendor and/or the State in order to operate or install the EDP equipment, or to allow the EDP equipment to accomplish the applications required. They differ from EDP consulting deliverables in that they are usually machine dependent, marketed as proprietary developments, and require only a minor amount of systems design work.

Examples of EDP Associated Software include, but are not limited to: operating systems, compilers, sorts, utilities, turnkey application packages, data base management systems, modifiable general purpose packages, and special purpose subroutine modules.

"Ordering Agency" - The agency which places orders to a Procuring Agency or which orders directly under delegated authority.

"Printing" - Means and includes all processes and operations involved in printing and any type of photographic reproduction or other duplicating process, including but not limited to letterpress, offset and gravure processes, the multilith method, any type of photographic or other duplicating process including high speed-electrostatic copier duplicators and the operations of composition, platemaking, presswork and binding; and the end products of such processes, method and operations. As used in this Act "printing" does not include photocopyers used in the course of normal business activities, nor computer impact printing, nor photographic equipment used for geographic mapping nor printed matter used in the normal day to day operations of the General Assembly.

"Procuring Agency" - The agency with primary or delegated procurement responsibility. This agency will generally solicit for needs and make awards.

## SUBPART B: APPROVAL OF PROCUREMENT RULES

## Section 1.200 Approval Required

EMERGENCY

All Procurement Rules must be approved by the Director of the Department of Central Management Services. No independent procurement action may be taken until this approval is granted.

## Section 1.210 When Approved

EMERGENCY

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

- a) If the submitting agency is subject to the Illinois Administrative Procedure Act, the proposed rules will be submitted to the Department of Central Management Services before or during the public comment period. If the agency desires to make a change because of a comment from the Joint Committee on Administrative Rules or from the public, the change must be submitted to DCMS for approval. If no changes are made the agency may proceed to adopt the rules.
- b) If the submitting agency is not subject to the Illinois Administrative Procedure Act, the rules must be submitted for approval prior to final adoption.

**Section 1.220 Filing of Rules****EMERGENCY**

The full text of any finally adopted Procurement Rules must be submitted to the Secretary of State, Administrative Code Unit, and to the Department of Central Management Services. Those rules will be available for public inspection by any interested party.

**Section 1.230 Standard Form of Rules****EMERGENCY**

The Standard Procurement Rules shall govern the procurement activities of all State agencies. Agencies with different rules on file with the Secretary of State may continue to utilize those rules until approval is revoked by the Department of Central Management Services.

**Section 1.240 Non-Standard Form of Rules****EMERGENCY**

An agency which desires to modify the Standard Procurement Rules or provide rules in non-covered areas may do so provided the program needs of the agency require a modification or addition, all elements of the various applicable procurement laws are complied with, the modification does not conflict with the Standard Procurement Rules, the modifications are based on sound procurement practices, and vendor confusion would not result. Request for non-standard rule approval should be discussed with the Department of Central Management Services prior to the start of rule-making.

**Section 1.250 Length of Approval****EMERGENCY**

DCMS approval is valid until revoked by DCMS. Notice of revocation will be given at least six months in advance. Approval shall be revoked if non-standard rules:

- a) do not adequately address procurement procedures,
- b) cause vendor confusion,
- c) result in unnecessary duplication, or

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

- d) are not properly coordinated with the Standard Procurement Rules.

## SUBPART C: PROCUREMENT RESPONSIBILITY

**Section 1.300 General****EMERGENCY**

Procurement responsibility is divided amongst various State agencies in accordance with the following. Procurements are valid only if accomplished by the agency with stated or delegated procurement authority. An agency with procurement needs must contact the appropriate procurement agency.

**Section 1.310 Department of Central Management Services****EMERGENCY**

The Department of Central Management Services is responsible for procuring or establishing contracts for the following classifications for all agencies except the State universities unless otherwise indicated:

- a) Equipment
- b) Commodities
- c) Supplies
- d) Utilities
- e) Postage
- f) Electronic Data Processing Equipment, Software and Services (Only for department, boards, commissions and agencies of the State of Illinois subject to the Governor).
- g) Telecommunications Equipment and Services (for all departments, officers, commissions, boards, institutions and bodies politic and corporate of the State except the General Assembly, legislative service agencies and all officers of the General Assembly. State colleges and universities are included under DCMS authority).
- h) Printing (excluding printed matter used in the normal day to day operations of the General Assembly).
- i) Paper and Stationery
- j) Vehicle Services (Only for the executive department of State government).
- k) Insurance and Bond Coverage.

**Section 1.320 Department of Transportation****EMERGENCY**

Contracts for the construction of and maintenance services for roads, highways, bridges and airports are the responsibility of the Department of Transportation. Additional rules exist for these procurements.

**Section 1.330 Capital Development Board****EMERGENCY**

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

Contracts for construction or remodeling of State-owned facilities are the responsibility of the Capital Development Board. All contracts for construction or remodeling of State-owned buildings in the Springfield Capitol Complex must be approved by the Legislative Space Need Commission. Additional rules exist for these procurements.

**Section 1.340 Procuring Agency Responsibility****EMERGENCY**

Contracts for service needs not covered in the preceding sections are the responsibility of each agency unless otherwise provided by law.

**Section 1.350 Delegation of Procurement Authority****EMERGENCY**

a) An agency with primary procurement responsibility may delegate procurement authority to any state agency in any reasonable manner if necessary or desirable. Such delegation shall require compliance with applicable procurement statutes and rules. An agency delegated procurement authority may not subdelegate that authority without first obtaining approval of the agency with primary procurement responsibility. If any private entity is involved in the process, writing specifications, evaluating bids or for any other reason the private entity's role shall be advisory only. All final decision shall rest with the procuring agency.

b) The Department of Central Management Services delegates to each agency responsibility for procurements in emergency situations. The agency shall, to the extent practicable, obtain needs in the most competitive manner possible.

c) The Department of Central Management Services delegates to each agency responsibility for obtaining goods or services available from the Department of Corrections' Correctional Industries program.

d) The Department of Central Management Services delegates to each agency responsibility for obtaining commodities, equipment, supplies and utilities for their own use up to and including \$25,000 for single items, and up to and including \$50,000 for multiple items providing no single item exceeds \$25,000.

1) For delegated procurements under \$5,000, agencies shall use their discretion to determine whether to seek competition. CMS will issue blanket authorizations and establish obligations with the Comptroller.

2) For delegated procurements between \$5,000 and \$50,000, agencies shall, whenever practicable, contact at least three vendors from the CMS vendor list, provide them with the same information regarding the agency's needs and any conditions that must be observed and accept the lowest price provided the offering meets the agency's needs and conditions. If vendors not on the CMS vendor list are solicited, the agency must pre-qualify that

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

vendor by having the vendor submit a CMS Bidder's Application Form with the vendor's offer. Agencies must submit requisitions for such procurements and CMS will issue authorizations back to the agency. CMS will establish obligations with the Comptroller.

3) For all delegated procurements, the agency must keep adequate records of the actions taken to procure the goods and must report on such activities using the form prescribed by CMS. This form will require agencies to identify the item procured, the competitive steps taken, the names of the vendors contacted, the prices each submitted, the name of the selected vendor and other such information.

4) Dividing or planning procurements to avoid use of competitive procedures ("stringing") is prohibited.

5) This delegation does not include items for which CMS establishes master, schedule or open-ended contracts, nor does it include items available from the Office Supply Warehouse (Springfield and Chicago area agencies only), nor does it include procurement of electronic data processing equipment, telecommunications equipment, vehicles, paper or stationary. All such items must be procured by CMS and all agencies must use such contracts established by CMS.

e) Delegation may be revoked or reduced at any time.

## SUBPART D: SOURCES OF SUPPLY

**Section 1.400 Open Source of Supply****EMERGENCY**

Unless the following Special or Directed Source can provide the needed goods or services, an agency with procurement authority may contract with any qualified source of supply.

**Section 1.410 Special Source****EMERGENCY**

a) Prior to any equipment procurement, each agency should consider property available from the State and Federal Surplus Warehouses which are under the jurisdiction of the Department of Central Management Services.

b) Various goods and services are available from qualified workshops for the disabled and procurement from these workshops is encouraged. Bidding is not required pursuant to Section 7-1 of the Illinois Purchasing Act and information regarding the workshops is available from the Department. See also subsection 1.530(m) and Section 1.2230 of this Part.

**Section 1.420 Directed Source****EMERGENCY**



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

In accordance with law the following sources of supply must be utilized whenever that source can supply the needs of the agency:

- a) Correctional Industries
- b) Small Business Set-aside Products and Services
- c) Central Services of the Department of Central Management Services
- d) Minority and Female-Owned Business Set-Aside.

## SUBPART E: METHODS OF PROCUREMENT

**Section 1.500 General****EMERGENCY**

The following sections indicate methods of procurement and do not grant independent procurement authority. Agencies with procurement authority are shown in the preceding sections.

**Section 1.510 Competition Encouraged****EMERGENCY**

All procurements regardless of the method used to obtain same should be accomplished in the most economic and competitive manner practicable. Procurements of goods or services covered by Section 1.530 shall follow this Part to the extent practicable and to the extent the State's intent and needs can be best met.

**Section 1.515 Competitive Procurement and Procedure****EMERGENCY**

- a) A competitive procurement is one in which more than one potential vendor is contacted, given information describing the agency's needs and any conditions that must be observed and asked to respond with a price quotation to meet those needs and conditions. Such information would be evaluated with the intent of selecting the vendor whose goods or services best meet the needs of the State, price and other factors being considered.
- b) Except for those procurements identified in Section 1.530 which are exempt from the use of competitive procurement procedures, awards are to be made to the lowest responsible bidder meeting needs and conditions.
- c) Any of the procedures described in Section 1.520, except negotiation with one vendor, are considered competitive procedures and may be used to conduct competitive procurements.

**Section 1.520 Source Selection****EMERGENCY**

Sources for goods and services will be obtained by use of one of the following methods:

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

- a) Sealed Bid: This method requires advertising in the Official State Newspaper, evaluation of bids and award made to the lowest responsible bidder whose bid conforms to State specifications, terms and conditions.
- b) Sealed Proposal: This method is a variation of Sealed Bidding and is used when available specifications are not adequate to define what is wanted so as to make an award based solely on low price or when features are difficult to directly compare. Bidder is asked to submit a priced technical proposal which would be evaluated according to predetermined criteria. Evaluation must show winning proposal to be the best of those submitted considering price and other factors. Advertising in the Official State Newspaper is required unless good or service is defined in Section 1.530 below.
- c) Negotiation: When a bid or proposal is not required by statute or regulation and when it is determined that a negotiated procurement is more practicable or will result in advantage to the State, then negotiations may be conducted with one or more vendors. Negotiation may consist of direct dealing with vendors, use of advertised or unadvertised solicitations or any combination of methods. Award will be made to vendor best filling State's needs.

**Section 1.530 Statutory Circumstances Allowing Negotiation****EMERGENCY**

Negotiation is authorized by law in any of the following circumstances:

- a) Where the goods or services to be procured are economically procurable from only one source, such as contracts for local exchange telephone service, electrical energy, and other public utility services, books, pamphlets and periodicals, and specially designed business and research equipment and related supplies. The items listed above are examples of single source items and are not intended to be exhaustive. If a specific item is unique and necessary it may be a single source item even though many similar items exist. Research and breeding livestock, for example, are individually unique and may be procured under this exception to bidding.
- b) Where the services required are for professional or artistic skills pursuant to a written contract.
  - 1) Professional or artistic services may be defined as services rendered by an individual or firm contractually hired by an agency because of their expertise in a given field. An essential element is trust in the ability and talent of the person performing the services. Contracts for manual skills are not included.
  - 2) Examples of professional or artistic services are set forth in the Comptroller's CUSAS manual.
- c) In emergencies involving public health, public safety, or where immediate expenditure is necessary for repairs to State property in order to protect against further loss of or damage to State property,

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

to prevent or minimize serious disruption in State services or to insure the integrity of State records. Where funds are expended in an emergency by purchase, contract or otherwise, however, the person or persons authorizing the expenditure shall file an affidavit with the Auditor General of the State of Illinois within 10 days after the purchase or contract setting forth: the amount expended, the name of the vendor or contractor involved, and the conditions and circumstances requiring the emergency purchase. Where only an estimate of the cost is available within 10 days after the purchase or contract, the actual cost must be reported immediately after it is determined. To the extent practicable emergency procurements should only be made for requirements during the emergency and only continue until such time as a competitive bid or proposal, if otherwise required, can be made.

d) In case of expenditures for personal services paid to employees or officers of a State agency. As used in this paragraph, "personal services" has the meaning ascribed to that term in Section 14 of the State Finance Act.

1) Services rendered by an individual as an employee of an agency and not as an independent contractor, whether paid from personal Service or Contractual line item, are exempt from bidding.

2) Services rendered by an employee of a temporary help or employment agency must be secured by competitive bid or proposal unless subsection (f) below is complied with.

e) Contracts for repairs, maintenance, remodeling, renovation, or construction of a single project involving an expenditure not to exceed \$10,000 and not involving a change or increase in the size, type or extent of an existing facility.

f) Contracts for repairs, maintenance, or any other services not specifically exempt from a competitive selection procedure under this Act where individual orders are less than \$25,000.

1) Services under this paragraph are to be contracted for in the manner and scope common in the trade or industry. Services are not to be divided into segments for the purpose of avoiding this paragraph.

2) Printing contracts may not be procured under this exception. All printing must be procured under sealed bid or sealed proposal except as provided in subsection 1.530 (c) above.

g) Purchases of commodities and equipment where individual orders are less than \$25,000. Purchases are not to be divided or planned so as to avoid competitive selection.

h) Contracts for the maintenance or servicing of, or provision of repair parts for equipment which are made with the manufacturers or authorized service agent of that equipment where the provision of parts, that maintenance or servicing can best be performed by the manufacturer or authorized service agent on such a contract would otherwise be advantageous to the State. However, this exception is not available for plumbing, heating, piping, refrigeration and automatic

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

temperature control systems (including testing and balancing), ventilating and distribution systems for conditioned air (including testing and balancing), electric wiring and general contract work.

i) Where the goods or services are procured from another governmental agency. This exception allows procurements from federal, State and local governmental units.

j) Purchases and contracts for the use or purchase, delivery, movement or installation of data processing equipment, software or services. telecommunications and inter-connect equipment, software and services.

1) All such acquisitions shall be determined to meet the State's needs and provide the best value for the specific application.

2) For acquisition made by or through DCMS, initial determination may be delegated to the ordering agency for approval by DCMS.

k) Personal service contracts made by members, officers, committees, or commissions of the General Assembly.

l) Any contract for duplicating machines and supplies.

m) Contracts for goods or services procured from workshops for the disabled that have been qualified to do business by DCMS. DCMS must approve such contracts to ensure reasonableness of price as determined by Section 1.2225(d) of this Part.

n) Purchases of and contracts for office equipment and associated supplies when such contracts provide for prices that are equal to or lower than Federal General Services Administration contracts and when such contracts or pricing result in economical advantage to the State.

o) Purchases and contracts by the Department of State Police for the use, purchase or installation of forensic science laboratory analytical equipment and analytical data processing equipment used for forensic science laboratory purposes only, including equipment which is microprocessor controlled or controllable, and its software. Prior to the purchase of or contract for such equipment, the Director of the Department of State Police shall certify to the Comptroller and the Auditor General that such equipment is necessary and an integral component of the Department of State Police's statutory investigatory duties and that competitive bidding will hamper such statutory duties. Such certification shall include the prices of and specifications of the equipment to be purchased or contracted for and the prices, specifications and reasons for rejection of comparative equipment by the Department of State Police. The Comptroller shall file such certification with any purchase vouchers or files maintained for the purchase. The Auditor General shall require such certification to be noted in audits performed at his direction.

p) Any contract for State Lottery tickets or shares or for other State Lottery game related services.

q) Purchases and contracts by the Department of Nuclear Safety for the use, purchase or installation of radiochemistry laboratory equipment, instruments and equipment used to detect radiation or radioactivity, and data processing equipment used for purposes of detecting radiation or radioactivity. Prior to the purchase of or contract for such



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

*equipment, the Director of the Department of Nuclear Safety shall certify to the Comptroller that such equipment is necessary and an integral component of the Department of Nuclear Safety's emergency response or radiation monitoring programs and that competitive bidding will hamper such programs. Such certification shall include the prices of and specifications of the equipment to be purchased or contracted for and the prices, specifications and reasons for rejection of comparable equipment by the Department of Nuclear Safety. The Comptroller shall file such certification with any purchase vouchers or files maintained for the purchase.*

**Section 1.540 Negotiation After Award****EMERGENCY**

An agency with procurement authority, Procuring Agency, may negotiate with the contract awardee for the purpose of securing better terms than originally offered, provided the salient features of the goods or services are not diminished.

**Section 1.550 Multiple Awards****EMERGENCY**

An award to multiple vendors may be made when it is to the State's advantage to have multiple lines of similar products available to ensure adequate delivery, service, availability, or for product compatibility. In making multiple awards or ordering from such contracts, care should be taken to protect and promote the principles of competitive solicitation. Multiple awards should not be made when it is clear that a single award would fully serve the State's needs.

**Section 1.560 Pre-Emption****EMERGENCY**

Negotiation may be used to procure goods or services where court order or federal law, regulation, or procurement practice prohibits or effectively prevents acquisition of the good or service by competitive means.

## SUBPART F: PUBLICIZING PROCUREMENT ACTIONS

**Section 1.600 Official State Newspaper****EMERGENCY**

The Department of Central Management Services will select, by Sealed Bid, a secular newspaper of general circulation and printed in English to be known as the Official State Newspaper. The term of the appointment and the requirements will be specified by the Department in the Invitation for Bids.

**Section 1.610 Advertising Required****EMERGENCY**

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

All State procurement actions may be advertised in the Official State Newspaper. It is recommended that advertisements for specific needs appear at least three times with the first and last ad at least 10 days apart. Advertisements may detail the State's needs or may generally indicate needs while inviting vendors to request Invitations for Bids. Agencies with delegated authority from CMS may solicit vendors directly from the CMS vendor list and need not advertise. CMS shall solicit vendors to apply for the list by means of advertising in the Official State Newspaper.

**Section 1.620 Re-Advertisement****EMERGENCY**

When a procurement is advertised and the ad contains errors, a single corrective ad may be placed to indicate additional information required for bidding or to extend time for bidding.

**Section 1.630 Direct Solicitation****EMERGENCY**

In addition to advertising, or in lieu of advertising, prospective vendors may be contacted directly. Direct solicitation may be in writing setting forth all particulars of the procurement action. Oral solicitation is permitted but care should be taken to ensure that all vendors solicited in this manner receive the same information. Written confirmation from vendors may be required.

## SUBPART G: INVITATIONS FOR BID AND RESPONSE

**Section 1.700 Bid List****EMERGENCY**

a) The Department of Central Management Services will establish and maintain a list of vendors interested in and qualified to do business with the State. Invitations for Bids will be sent to vendors on the bid list for goods or services in question except in the following cases:

- 1) When bidder does not sell the particular commodity or equipment.
- 2) If on two consecutive occasions a bidder fails to respond or returns the bid form without bidding for a particular good or service, an Invitation for Bid will not ordinarily be sent on the next occasion when bids are invited for that particular commodity or equipment unless the bidder indicates a desire to bid on such items by a notation on the bid form or by a subsequent letter to the Procuring Agency.
- 3) When the number of bidders for a procurement classification is of such magnitude that optimum prices may reasonably be expected without inviting bids from the entire bidders list, the Procuring Agency may, if it determines that the best interest of the State would be served, rotate the Invitations for Bids on any equitable



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

basis, by using only part of the bidders list when it sends out Invitations for Bids.

- 4) Geographical Limitation. The Invitations for Bids may be confined to bidders in a limited geographical service area, when the Procuring Agency determines that the best interests of the State will be served by so doing (example: purchases of readymix concrete, perishables and equipment requiring periodic service).
- b) Other agencies may request names of qualified vendors from the Department of Central Management Services. Such names will be given out only to allow bidding on specific procurements.
- c) Bidders on this list are considered responsible and further determinations are not required but may be made based upon new information. Bidders must update information whenever any significant change occurs.

**Section 1.710 Contents of Invitations for Bids****EMERGENCY**

Invitations for Bids (IFB) will contain the following information:

- a) The goods or services to be procured or contracted for.
- b) The quantity of the item to be procured. This may be a specified quantity, all requirements up to a specified quantity during a certain period, a specified quantity with the right reserved by the State to increase or decrease it, or any other method of defining quantity.
- c) The specification and item number, if any, of the goods or services. In case of certain goods or services, the Procuring Agency will send out specifications ahead of time which will apply to all future bids for those goods or services or until such time as they are amended or withdrawn.
- d) Any installation, maintenance, warranty, or repair services to be provided with the item.
- e) The name and location of the requisitioning agency to which invoicing and delivery is to be made.
- f) The date or dates when delivery or service is to be made, or the period during which deliveries or service will be ordered and must be accomplished.
- g) The type of pricing desired.
- h) Whether the award will be based upon lowest price bid or the lowest evaluated price (best bid) whichever is applicable. If the latter is used, the evaluation criteria shall be set forth in the Invitation.
- i) Statement of prevailing wages and benefits that must be paid.
- j) Reference to these and any other applicable rules.
- k) Any other terms and conditions which bids must meet.

**Section 1.720 Time and Place to Submit Bids****EMERGENCY**

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

In addition to the above, each Invitation for Bids will indicate a date, time and place for the vendor to submit a bid. Responses received late will not be considered. The State does not prescribe the method by which bids are to be transmitted; therefore, it cannot be held responsible for delay in transmission resulting in late delivery.

**Section 1.730 Submission of Bids****EMERGENCY**

Each bid must conform to the requirements of this Part and to any additional requirements in the Invitations for Bids. Unless otherwise stated in the Invitation, bids shall be returned using the State supplied bid form and envelope. Every bid should be typed or submitted in ink. Other methods, if unclear, may result in disqualification. Bids must be signed by an authorized representative of the bidder.

**Section 1.740 Change or Withdrawal of Bid****EMERGENCY**

A bidder may change or withdraw a bid if written or in-person notice of the change or withdrawal is received by the Procuring Agency before the time specified for submission of bids. No change or withdrawal is allowed after bid opening except as provided in Subpart L of this Part. Modifications, changes, and erasures must be initialed in ink by the bidder.

**Section 1.750 Submission Binding****EMERGENCY**

Any bid submitted may be accepted within 30 days of opening unless a different period of time is specified in the Invitation for Bids. Acceptance by the State will bind the bidder in accordance with this Part and any terms and conditions contained in the IFB.

**Section 1.760 Bid Reservations****EMERGENCY**

The State reserves the right to reject any or all bids or any part thereof, to waive immaterial technicalities and to accept bids deemed most favorable to the interests of the State after all have been examined and evaluated.

## SUPPART H: RESPONSIBILITY OF BIDDER

**Section 1.800 Bidder Must be Responsible****EMERGENCY**

Contracts are to be made only with responsible bidders unless no responsible bidder is available to meet the State's needs. If there is doubt about the responsibility of a bidder and if a bond or other security would adequately

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

protect the State's interests, then that bidder may be awarded a contract upon receipt of the bond or other security.

**Section 1.810 Determination by Procuring Agency**  
**EMERGENCY**

The determination of responsibility is made by the Procuring Agency and such determination is to be based upon written documentation regarding the following Standards of Responsibility. Responsibility can be proven until time of award or execution of contract, whichever is later.

**Section 1.820 Proof of Responsibility**  
**EMERGENCY**

Each prospective bidder must provide the State with adequate documentation of responsibility. The State will ordinarily provide forms for this information. The State may supplement this information from other sources and may require additional documentation at any time.

**Section 1.830 Standards of Responsibility**  
**EMERGENCY**

Responsibility may be determined by consideration of whether the bidder:

- a) Has adequate financial resources or the ability to obtain such resources as required during the performance of the contract. The Procuring Agency may designate a level of financial resource below which the bidder will be deemed "not responsible".
- b) Is able to comply with required or proposed delivery or performance schedules, taking into consideration all existing commercial and governmental commitments.
- c) Has a satisfactory record of performance. Bidders who are or have been deficient in current or recent contract performance in dealing with the State or other customers may be deemed "not responsible" unless the deficiency is shown to have been beyond the reasonable control of the bidder.
- d) Has a satisfactory record of integrity and business ethics.
- e) Has a current Public Contracts number from the Illinois Department of Human Rights if required. Proof of application prior to bid award will be sufficient for an initial determination.
- f) Pays prevailing wages if required by law. Each agency procuring services covered under Section 1.650(a)(3) of this Part will contact the Illinois Department of Labor to ascertain prevailing wages, benefits and conditions. These, if known, must be shown on the certification form contained in each Invitation for Bids and each bidder must certify that prevailing wages, benefits and conditions are met. Certification forms are to be filed with DCMS and the Illinois Department of Labor. Complaints regarding compliance with prevailing wages, benefits and conditions shall be directed to the Department of

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

Labor.

**Section 1.840 New Bidders**  
**EMERGENCY**

- a) Bidders not having a history of performance may be considered responsible if no other disqualifying factors exist. A bond or other security may be required for such bidders.
- b) Bidders who are newly formed business concerns having substantially the same owners, officers, directors, or beneficiaries as a previously existing not-responsible bidder will be declared not-responsible unless the new organization can prove it was not set up for the purpose of avoiding an earlier declaration of non-responsibility.

## SUBPART I: BID AND PERFORMANCE SECURITY

**Section 1.900 Security Required**  
**EMERGENCY**

A Procuring Agency may require that a bidder furnish bid or performance security on State contracts. Whenever a bond is required, except as provided herein, the bid request will clearly indicate the type and amount of security.

**Section 1.910 Form of Security**  
**EMERGENCY**

Security, unless otherwise specified, may be in the form of cashier's check, certified check, money order, irrevocable letter of credit or bond. However, for printing contracts, bid deposits may not be by bond or letter of credit. Any bond must be issued by a surety company authorized to do business in the State of Illinois.

**Section 1.920 Amount**  
**EMERGENCY**

The Procuring Agency will determine the amount, in dollars or percentage of contract price, that will adequately protect the State's interests. On printing contracts bid security is limited to 1% of the contract price and to 10% of the contract price for performance security. On paper contracts bid security is limited to \$1000 and to \$10,000 for performance security.

**Section 1.930 Subsequent Requirement**  
**EMERGENCY**

A bidder may be required to furnish 100% performance security at his cost without prior notice if it appears that delivery or production schedule cannot be met, quality is poor, responsibility is questioned and for similar reasons.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

**Section 1.940 When Allowed or Required**  
**EMERGENCY**

- a) Bid security is permissive on any contract but is not appropriate on negotiations, emergency or sole source procurements.
- b) Performance security is permissive on any contract and is recommended on contracts calling for advance payment.
- c) Performance security is required on all public works contracts.

**Section 1.950 Annual Security**  
**EMERGENCY**

A bidder may submit a single or continuous security each year which will be applicable on all contracts of the Procuring Agency. When such security has been obligated in an amount equal to the sum of accumulated security requirements, additional security must be submitted.

**Section 1.960 Return of Security**  
**EMERGENCY**

Bid security will be returned to unsuccessful bidders as soon after award as possible. The bid security of the successful bidder will be returned after contracts have been signed and performance security, if any, submitted. Performance security will be returned upon full performance.

## SUBPART J: SPECIFICATIONS AND SAMPLES

**Section 1.1000 Specifications Required**  
**EMERGENCY**

All procurements shall be based on specifications which accurately reflect the State's needs. Specifications shall clearly and precisely describe the salient technical or performance requirements without including restrictions which do not significantly affect the technical requirements or performance requirements or other legitimate State needs.

**Section 1.1010 Reference Specifications**  
**EMERGENCY**

Any specifications or standards adopted by business, industry, not-for-profit organization or governmental unit may be adopted by reference in any Invitation for Bids.

**Section 1.1020 Brand Name or Equal**  
**EMERGENCY**

- a) Specifications which refer to one or more brand name products followed by the words "or equal" may be used in any procurement activity. "Or

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

equal" submissions will not be rejected because of minor differences in design, construction or features which do not affect the suitability of the product for its intended use. Burden of proof that product is equal is on the bidder.

- b) Brand name alone may be specified in order to fill medical prescription needs or to stock State retail-type operations.

**Section 1.1030 Proven Products**  
**EMERGENCY**

Goods or services may be rejected if they have been used in business or industry for less than one year.

**Section 1.1040 State Required Samples**  
**EMERGENCY**

Any required samples must be submitted as instructed in the Invitation for Bids with transportation prepaid by the bidder. Each sample must be labeled with the bidder's name, address and a means of matching the sample with the applicable bid.

**Section 1.1050 Representative Sample**  
**EMERGENCY**

Any sample submitted must be representative of the item which would be delivered if a contract were awarded for that item. Samples submitted by a successful bidder will be retained to check continuing quality. Submission of sample will not limit the State's right to require adherence to specifications.

**Section 1.1060 Payment for Samples**  
**EMERGENCY**

No payment will be made for State Required Samples unless a separate contractual agreement is entered into. Samples not destroyed or consumed by examination or testing will be returned upon request and at bidder's expense. Such request must be made at time of submission with return collect or prepayment provisions and instructions for return accompanying the samples.

**Section 1.1070 Product Demonstration**  
**EMERGENCY**

Any bidder may request time and space to demonstrate a product or service. Agreement to allow such demonstration will be solely at the State's discretion and will not entitle the bidder to a contract nor shall payment for the demonstration be allowed unless a written contract had been executed prior to the demonstration.

## SUBPART K: AWARD OF CONTRACT



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

**Section 1.1100 Bid Opening****EMERGENCY**

All Sealed Bids and Sealed Proposals and where appropriate, Negotiations, received prior to the time set for opening shall be opened in public at the date, time and place specified and when practicable the record or abstract shall be read.

**Section 1.1110 Recording****EMERGENCY**

- a) Bid information, including opening date, general description of the procurement, names of bidders shall be entered in an abstract or record at time of bid openings.
- b) The Contracting Officer shall certify to the accuracy of the abstract or record. This abstract or record shall be available for public inspection following the award for a period of one year.

**Section 1.1120 Award****EMERGENCY**

Unless all bids are rejected, a notification shall be made in writing within the time allowed for acceptance to the responsible bidder whose bid, conforming to the request for bids, will be most advantageous to the State, price and other relevant factors being considered. The notification must be considered conditional upon favorable determination of any protest. Other factors include but are not limited to:

- a) Cash discounts. In determining the lowest bid when the Invitation for Bids asks to have cash discounts stated separately, only cash discounts having a period of thirty days or more will be taken into account. The Invitation for Bids shall state if cash discounts will be taken into account in determining the award.
- b) Trade discounts. Trade discounts should never be shown separately, but should always be deducted by the vendor in calculating the unit price quoted.
- c) Quantity discounts. Quantity discounts should be included in the price of an item. Such discounts may not be considered where set out separately unless the Invitation for Bids so specifies. When quantity discounts are requested by the invitation, the price per item shown on the purchase order shall be net (after application of such discount).
- d) Unit price governs. In case of a mistake in the calculation of total price, the unit price shall govern.
- e) Awards of any or all items. An award may be made to the lowest aggregate bidder for all items or on an item basis, or a group of like items, whichever is found to be in the best interest of the State. If a split award is not acceptable to a bidder, it must be stated in the bid response.
- f) Tie bids. If two or more bids meeting the specifications and other

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

requirements of the Invitation for Bids are tied for low price, the bid will be treated as follows:

- 1) If the tied vendors include an Illinois vendor, the Illinois vendor shall be given the award. If two or more Illinois vendors are tied the decision shall be made to choose from the Illinois vendors in accordance with paragraphs (2) through (5) following. If no Illinois vendors are included, the decision shall be made in accordance with paragraphs (2) through (5) following.
- 2) If there is a significant difference in the responsibility of the bidders (including ability to provide the service or deliver in the quantity and at the time required), the award will be made to the bidder who is deemed to be the most responsible. A bidder who has had experience in contracting with the State shall be given additional consideration in determining responsibility if the Contracting Officer determines that dealing with a vendor that has knowledge of state requirements, contracts, job sites, payment practices and such other factors and with which there has been favorable past experience increases the likelihood of successful performance.
- 3) If there is no significant difference in the responsibility of the bidders, but there is a difference in the quality of the goods or services offered, the bid offering the best quality will be accepted.
- 4) If there is no significant difference in the responsibility of the bidders and no difference in the quality of the goods or services offered, the bid offering the earliest delivery time will be accepted in any case in which the Invitation for Bids specified that the needs of the requisitioning agency require as early delivery as possible. In all other cases, delivery time will not be considered in making awards so long as the bidder states he will deliver not later than the time specified in the Invitation for Bids as the latest acceptable delivery time.
- 5) If the bids quoting the same price are equal in every respect the award shall be made by lot to one of the low bidders unless the Contracting Officer determines that splitting the award amongst two or more of the tied bidders is in the best interest of the State. Awards shall be split if all affected bidders agree, if splitting is feasible given the type of good or service requested, and if overall pricing would be significantly lowered balanced against costs of administering multiple contracts, or if delivery would be better ensured, or if necessary or desirable to promote future competition.
- g) Foreseeable costs or delays. Additional costs or delays, not contemplated by the Invitation for Bids, such as differences in inspection, location of goods or service centers, transportation or other such factors are relevant factors in making awards.
- h) Bidder changes. Changes made or requested by the bidder, including contract terms, which do not constitute ground for rejection.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

- i) Availability of Maintenance and Repair Services. If the Invitation for Bids specifies that maintenance and/or repair services will have to be provided by the successful bidder and if it appears the lowest bidder cannot be depended upon to provide such services promptly, or if maintenance and/or repairs are not available without excessive travel expense, the bid may be rejected even though it is the lowest bid.

If the Invitation for Bids does specify that maintenance and repair services will have to be provided by the successful bidder, the State reserves the right to require proof from the apparent low bidder that maintenance and repair services are economically available on a timely basis from other authorized sources. If such maintenance and repair services are not available the bid may be rejected even though it is the low bid.

- j) Equality of Price Structure. Evaluation on price will be made on basis of the same price or time/price structure to ensure that evaluation is made on the same basis. For example, three year lease plans can be directly compared, but if a three year plan is compared to a two year plan, price adjustments will have to be made.

**Section 1.1130 Alternate Bids****EMERGENCY**

Alternative bids may be considered in the following circumstance. If no vendor who submitted a bid can meet a particular State requirement, that requirement, even if material, may be waived and the remainder of the bid evaluated.

**Section 1.1140 Supplementary Orders****EMERGENCY**

When a Procuring Agency issues an award and an order for a particular good or service after following the prescribed procedure, it may at any time during the contract period issue additional orders to the same vendor, or amendments to the original order for an additional quantity of the same item, at the same price and on the same terms and conditions if:

- a) The vendor agrees to accept such purchase order or amendment if issued;
- b) The market price of the good or service in question has not gone down since the first purchase; and
- c) The amount of the subsequent purchases or amendments are not of such magnitude as to constitute a substantial or material variation of the original contract. Ordinarily, a variation of more than 20% should be deemed substantial or material. This applies only when the original IFB contained a definite or estimated quantity or dollar amount provision.

**Section 1.1150 Delay in Award****EMERGENCY**

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

Should administrative difficulties be encountered after bid opening which may delay award beyond bidders' acceptance periods, the responsive bidders may be requested, before expiration of their bids, to extend the bid acceptance period (with consent of sureties, if any) in order to avoid the need for readvertisement.

**Section 1.1160 Cancellation of Invitation****EMERGENCY**

An Invitation for Bids may be cancelled prior to award or after consideration of protest and all bids rejected when such action is in the best interests of the State. Every effort shall be made to anticipate necessity of rejection to avoid additional procurement costs and exposure of bid prices. Reasons for rejecting all bids include but are not limited to:

- a) Inadequate, ambiguous, or otherwise deficient specifications were cited in the Invitation for Bids.
- b) The goods or services are no longer required.
- c) The Invitation for Bids did not provide for consideration of all factors of cost to the State, such as cost of transporting State-furnished property to bidders.
- d) Bids received indicate that the needs of the State can be satisfied by a less expensive good or service differing from that on which the bids were invited.
- e) All otherwise acceptable bids received are at unreasonable prices.
- f) The bids were not independently arrived at in open competition, were collusive, or were submitted in bad faith.
- g) The bids received did not provide competition which was adequate to insure reasonable prices.

**Section 1.1170 Notice of Cancellation****EMERGENCY**

When it is determined to reject all bids and to rebid the request, the Contracting Officer shall notify each bidder that all bids have been rejected, stating the reason for such action.

**Section 1.1180 Rejection of Individual Bids****EMERGENCY**

- a) Any bid which fails to conform to the essential requirements of the Invitation for Bids, such as specifications, delivery schedule, or permissible alternate thereto, may be rejected as nonresponsive.
- b)
  - 1) Bids containing any material alteration or erasure may be rejected unless the change is initialed in ink by the bidder.
  - 2) Samples submitted showing evidence of altering or removing manufacturer's label, logotype, model or serial number, or any other standard of the industry for identification, shall be due

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

cause for rejection of the bid, unless alteration or removal is supported with justifiable documentation satisfactory to the Procuring Agency.

- c) Ordinarily, a bid shall be rejected or considered an alternative bid where the bidder imposes conditions which would modify requirements of the Invitation for Bids or limit liability to the State so as to give an advantage over other bidders. For example, bids may be rejected in which the bidder:

- 1) Attempts to protect against future changes in conditions such as increased costs, if total price to the State cannot be determined for bid evaluation.
- 2) Fails to state a price and, in lieu thereof, states that price shall be "price in effect at time of delivery".
- 3) States a price but qualifies such price as being subject to "price in effect at time of delivery".
- 4) Where not authorized by the invitation, conditions or qualifies the bid by stipulating that the bid is to be considered only if, prior to date of award, bidder receives (or does not receive) award under a separate procurement.
- 5) Limits rights of State under any contract clause. However, a low bidder may be requested to delete objectionable conditions from the bid if these conditions do not go to the substance, as distinguished from the form of the bid. A condition goes to the substance of a bid where it affects price, quantity, quality, or delivery of the items offered.
- d) Any bid may be rejected if the contracting officer determines in writing that it is unreasonable as to price.
- e) Bids received from any person or concern debarred or ineligible shall be rejected if the period of debarment or ineligibility has not expired.
- f) Low bids received from firms determined to be not responsible.
- g) Where a bid security is required and a bidder fails to furnish it in accordance with the requirements of the Invitation for Bids.
- h) After submitting a bid, if a bidder transfers all of his assets or that part of his assets related to the bid during the period between the bid opening and the award, the transferee may not take over the bid except with permission of the State.
- i) The originals of all rejected bids, and any written findings with respect to such rejections, shall be preserved along with the bids and other papers relating to the procurement.

**Section 1.1190 Minor Informalities or Irregularities in Bids****EMERGENCY**

- a) A minor informality or irregularity is one which is a matter of form or pertains to some immaterial or inconsequential defect or variation of a bid from the exact requirement of the Invitation for Bids, the correction or waiver of which would not be prejudicial to other

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

bidders.

- b) The defect or variation in the bid is immaterial and inconsequential when its significance as to price, quantity, quality, or delivery is trivial or negligible when compared to the total cost or scope of the goods or services being procured. The Contracting Officer shall either give the bidder an opportunity to cure any deficiency resulting from a minor informality or irregularity in a bid or waive such deficiency, whichever is to the advantage of the State. Examples of minor informalities or irregularities of form include, but are not limited to:

- 1) Failure of bidder to return the number of copies of signed bids required by the Invitation for Bids.
- 2) Failure of bidder to sign its bid, but only if
  - A) the unsigned bid is accompanied by other material indicating the bidder's intention to be bound by the unsigned bid document, such as the submission of a bid guarantee, or a letter signed by the bidder with the bid referring to and clearly identifying the bid itself; or
  - B) the firm submitting a bid has formally adopted or authorized, before the date set for opening of bids, the execution of document by typewritten, printed, or stamped signature and submits evidence of such authorization and the bid carries such a signature.
- 3) Failure of bidder to acknowledge receipt of an amendment to an Invitation for Bids, but only if:
  - A) the bid received clearly indicates that the bidder received the amendment, such as where the amendment added another item to the Invitation for Bids and the bidder submitted a bid thereon; or
  - B) the amendment involves only a matter of form or is one which has either no effect or merely a trivial or negligible effect on price, quantity, quality, or delivery of the item bid upon.

**Section 1.1200 Time of Award****EMERGENCY**

After evaluation, the Contracting Officer of the Procuring Agency will determine and announce the apparent awardee. The award will not become final until any protest period has passed. If a protest is received, award will not be made final until the protest is resolved. Award may be final immediately if necessary to secure agency needs. Performance prior to finalization of award or execution of contract is at bidder's risk.

**Section 1.1210 Binding Contract****EMERGENCY**

Once an award has been finalized the bidder is bound to perform according to



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

the terms and conditions of the Invitation for Bids and this Part or other mutually agreed to terms and conditions.

## SUBPART L: MISTAKES IN BIDS

**Section 1.1300 General****EMERGENCY**

After the opening of bids, Contracting Officers shall examine all bids for mistakes. In cases of apparent mistakes and in cases where the Contracting Officer has reason to believe that a mistake may have been made, he shall request from the bidder a verification of the bid, calling attention to the suspected mistake. If a bidder alleges a mistake, the matter shall be processed in accordance with this Section. Such actions shall be taken prior to award.

**Section 1.1310 Apparent Clerical Mistake****EMERGENCY**

Any clerical mistake, apparent on the face of a bid, may be corrected by the Contracting Officer prior to award, if the Contracting Officer has first obtained from the bidder verification of the bid actually intended. Examples of such apparent mistakes are: obvious misplacement of a decimal point; obviously incorrect discounts (for example, 1 percent 10 days, 2 percent 20 days, 5 percent 30 days); obvious reversal of the price freight or board (f.o.b.) destination and price f.o.b. origin; and obvious mistake in designation of unit. Correction shall be reflected in the award document.

**Section 1.1320 Other Mistakes Disclosed Before Award****EMERGENCY**

Contracting Officers of Procuring Agencies are authorized, in order to minimize delay in contract awards, to make the administrative determinations described below in connection with mistakes in bids alleged after opening of bids and before award. The authority contained herein to permit correction of bids is limited to bids which, as submitted, are responsive to the Invitation for Bids, and may not be used to permit correction of bids to make them responsive.

- a) A determination may be made permitting the bidder to withdraw its bid where the bidder requests permission to do so and clear and convincing evidence establishes the existence of a mistake.
- b) If the evidence is clear and convincing both as to the existence of a mistake and as to the bid actually intended, and if the bid, both as uncorrected and corrected, is the lowest received, a determination may be made to correct the bid and not permit its withdrawal.
- c) A determination may be made permitting the bidder to correct the bid where the bidder requests permission to do so and clear and convincing evidence establishes both the existence of a mistake and the bid actually intended. However, if such correction would result in

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

displacing one or more lower acceptable bids, the determination shall not be made unless the existence of the mistake and bid actually intended are ascertainable substantially from the Invitation and bid itself. If the evidence is clear and convincing only as to the mistake, but not as to the intended bid, a determination permitting the bidder to withdraw his bid may be made.

- d) If the evidence does not warrant a determination under paragraphs (a), (b), or (c) of this Section, a determination may be made that a bidder may neither withdraw nor correct his bid.

**Section 1.1330 Disclosure of Mistakes After Award****EMERGENCY**

- a) When a mistake in a bid is not discovered until after the award, the mistake may be corrected by contract amendment or supplemental agreement if correcting the mistake would make the contract more favorable to the State without changing the essential requirements of the contract.

- b) If a correction would not favor the State, a determination may be made to rescind a contract or to reform a contract, to delete the item or items involved in the mistake with appropriate reductions in price, or to increase the price where such increase does not exceed \$5000 and if the contract price, as corrected, does not exceed that of the next lowest acceptable bid under the original Invitation for Bids.

- c) Such determinations may be made only on the basis of clear and convincing evidence that a mistake in bid was made, and either that the mistake was mutual or that the unilateral mistake made by the contractor was so apparent as to have charged the contracting officer with notice of the probability of the mistake. If the evidence does not warrant a determination to rescind or reform, a determination may be made that no change shall be made in the contract as awarded.

**Section 1.1340 Processing Mistakes****EMERGENCY**

- a) Suspected or alleged mistakes prior to award shall be processed as follows:

- 1) Whenever the Contracting Officer suspects that a mistake may have been made in a bid, he shall immediately request that the bidder verify the request. Such request shall inform the bidder why the request for verification is made, that a mistake is suspected and the basis for such suspicion; e.g., that the bid is significantly out of line with the next low or other bids or with the State's estimate. If the time for acceptance of bids is likely to expire before a decision can be made, the Procuring Agency, shall request all bidders whose bids may become eligible for award to extend the time for acceptance of their bids. If the bidder whose bid is believed erroneous does not grant such extension of

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

time and a decision cannot be reached before expiration of the time for acceptance, even if handled by telegraph or telephone as provided in subsection (d) of this Section, the bid shall be considered as originally submitted.

- 2) If the bidder verifies his bid, the Procuring Agency shall consider it as originally submitted. If the bidder alleges a mistake, the Contracting Officer shall advise him to support his allegation by statements concerning the alleged mistake and by all pertinent evidence, such as the bidder's file copy of the bid, his original worksheets and other data used in preparing the bid, subcontractors' and suppliers' quotations, if any, published price lists, and any other evidence which will serve to establish the mistake, the manner in which it occurred, and the bid actually intended.
- b) If a mistake is disclosed after award the contracting officer shall advise the contractor to support the alleged error by written statements and by all pertinent evidence, such as the contractor's file copy of the bid, his original worksheets and other data used in preparing the bid, subcontractors' and suppliers' quotations (if any), published price lists, and any other evidence which will serve to establish the mistake, the manner in which it occurred, and the bid actually intended.
- c) Where the bidder furnished evidence in support of an alleged mistake, the Procuring Agency shall consider:
  - 1) All evidence furnished by the bidder.
  - 2) The bid, the Invitation for Bids, any specifications or drawings relevant to the alleged mistake.
  - 3) The abstract or record of the bids received.
  - 4) A contract if any.
  - 5) A written statement by the Contracting Officer setting forth:
    - A) The expiration date of the bid in question and of the other bids submitted;
    - B) Specific information as to how and when the mistake was alleged;
    - C) A summary of the evidence submitted by the bidder;
    - D) In the event only one bid was received, a quotation of a recent contract price for the supplies or services involved, or, in the absence of a recent comparable contract, the estimate of a fair price for the supplies or services and the basis for such estimate;
    - E) Any additional evidence considered pertinent including copies of all correspondence between the contracting officer and the bidder concerning the alleged mistake; and
    - F) The course of action with respect to the bid that the contracting officer considers proper on the basis of the evidence.
- d) Where the bidder fails or refuses to furnish evidence in support of a suspected or alleged mistake, the Contracting Officer shall consider

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

the bid as submitted unless the amount of the bid is so far out of line with the amounts of other bids received or with the amount estimated by the agency or determined by the contracting officer to be reasonable, or there are other indications of error so clear, as reasonably to justify the conclusion that acceptance of the bid would be unfair to the bidder or to other bona fide bidders, in which case it may be rejected. The attempts made to obtain the information required and the action taken with respect to the bid shall be fully documented.

**Section 1.1350 Procedural Error by State****EMERGENCY**

If, for any reason, the Procuring Agency makes an award that is procedurally incorrect and if it determines not to overturn the award, the protesting bidder that should have received the award may only claim as damages the cost of bid preparation. An explanation of such procedural errors will be filed with the Department of Central Management Services and with the Auditor General.

## SUBPART M: CONTRACT TERMS

**Section 1.1400 Terms and Conditions of Transactions****EMERGENCY**

The following terms and conditions, or substitute language proposed by the bidder and acceptable to the State, whether in a contract form or not, shall apply to any contract resulting from these procedures:

- a) Entire Agreement - These terms and conditions, together with the Invitation for Bids, other written representation of bidder, and all sheets or documents as are made a part hereof, shall constitute the entire present agreement between the parties.
- b) Modifications - No change in, addition, or waiver of the items, conditions and specifications contained herein shall be a binding obligation on the State unless approved in writing by its authorized representative.
- c) Title and Risk of Loss - Title to the goods herein described shall not pass until said goods have actually been received by the State or its consignee, unless specifically agreed to the contrary. Risk of loss prior to actual receipt by the State or its consignee shall be borne by Bidder. Nothing herein contained, however, shall be construed by depriving the State of its interest, or limiting such interest, in the goods herein described prior to actual receipt.
- d) Inspection - All material and workmanship shall be subject to inspection and test by the State. State reserves the right to reject any goods or services which contain defects in material or workmanship or which fail to meet the specifications contained herein or bidder's warranties of the Bidder, including transportation both ways, promptly after notification of rejection. As to rejected goods and services,



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

- Bidder shall bear all costs of inspection and all risk of loss.
- e) Payment and Price - Payment by State for goods supplied hereunder shall not constitute acceptance thereof if subsequent inspection discloses defects in material or workmanship or a failure to meet the specifications contained herein. In no event shall State be charged a price higher than charged to Bidder's other customers for goods of like grade and quality and in substantially the same quantities.
  - f) Shipping Instructions - If specified, packages must bear State's order number and bulk containers must also show gross, tare and net weights and or quantity. No packaging charge shall be made to State unless specified herein. All goods shall be suitably packed and classified to assure the lowest transportation rates consistent with full protection against loss or damage in transit and to meet the carrier's requirements.
  - g) Deliveries - Time is of the essence. Deliveries shall be made to State's receiving area or designated installation site, not to individuals or departments.
  - h) Rejection and Cancellation - State reserves the rights to reject any goods and to cancel all or any part of a transaction if Bidder fails to deliver all or any part of the goods or services described in the Invitation for Bids in accordance with the terms, conditions and specifications contained therein. Acceptance of any part of the goods covered by the Invitation for Bids shall not obligate State to accept future shipments nor deprive it of its rights to revoke any acceptance theretofore given. If Bidder ceases to conduct its operations in the ordinary course of business (including inability to meet its obligations as they mature), or if any proceeding under bankruptcy or insolvency laws is brought by or against Bidder, or if a receiver for bidder is appointed or applied for, or if an assignment for the benefit of creditors is made by Bidder, State may cancel this order without liability except for deliveries previously made or for goods covered by the Invitation for Bids then completed and subsequently delivered in accordance with the terms, conditions and specifications contained therein.
  - i) Waivers - State's waivers of any breach or failure to enforce any of the terms, conditions and specifications of the Invitation for Bids shall not in any way affect, limit or waive State's right thereafter to enforce and compel strict compliance with every term, condition and specification thereof.
  - j) Warranties
    - 1) Bidder makes the following warranties to State and its customers and the users of the goods or services herein described in the bid:
      - A) It will, at the date of delivery, have good title to any and all goods supplied hereunder, and said goods will be free and clear of any and all liens and encumbrances.
      - B) Any and all goods supplied hereunder will be of merchantable quality and fit for the particular use intended.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

- C) Will be free from defects, whether patent or latent in material or workmanship, and will be in full conformity with the specifications contained herein.
- 2) Bidder agrees that the foregoing warranties shall survive acceptance of the goods, and that said warranties shall be in addition to any warranties of additional scope given to State by Bidder. The warranty in paragraph (1)(B) above may be modified if expressly brought to the attention of the Procuring Agency and an acceptable substitute offered.
- k) Patent Infringement - Bidder agrees to indemnify and hold harmless State, its successors, assigns, customers, and users of the goods herein described against any and all loss, damage or injury arising out of a claim or suit for alleged infringement of any letters patent granted by the United States or any foreign government relating to the goods or services described in the bid. Bidder agrees that it will assume the defense of any and all such suits and pay all costs and expenses incidental thereto including attorney fees.
- l) Governing Law - The contract formed pursuant to the terms, conditions and specifications of the Invitation for Bids and the obligations thereby imposed on Bidder and State shall be governed by and construed according to the laws of the State of Illinois. Bidder represents and agrees that the goods herein described have not been or will not be manufactured, sold, priced or transported in violation of any federal, state or local law or any lawful order, rule or regulations issued thereunder.
- m) Assignment - Bidder shall not assign such contract without the written consent of the State.
- n) New Items - Unless otherwise specified in the Invitation for Bids all items delivered must be new and current unless demonstrated industry practice allows for use of used or remanufactured parts. All must, however, be warranted as new. If used or remanufactured parts are used in new items, bidders may be required to provide statistics on service problems or breakdowns associated with such used or remanufactured parts. Nothing herein shall prohibit use of recycled raw materials.
- o) Electronic Data Processing Equipment Rental or Leases must contain the following:
  - 1) If more favorable terms are granted hereafter by the Lessor to any similar State or local governmental agency in any state in contemporaneous leases or rental agreement covering data processing equipment let under the same or similar financial terms and circumstances, the more favorable terms shall be applicable to all agreements or contracts made by any similar Illinois State agency for the rental or lease of comparable data processing equipment from the Lessor.
  - 2) Lessor agrees that if more favorable terms for the equipment offered herein, under the same type of contract under the same financial conditions and economic factors, and for the identical



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

or less quantity have been since the date of the commencement of this lease granted to any State or local government agency or unit in any state in the United States of America that such terms shall be applicable to this lease commencing with the date such terms become available to such other agency. Any other such terms granted to such other agency which were negotiated with such "more favorable terms" shall also be made applicable to this contract.

3) For the purposes of this provision, financial conditions and economic factors used by the Lessor to establish price will include, but not be limited to the then current interest rates, the type and model of equipment, the credit of the governmental unit, state and local taxes payable by Lessor, the purchase price of the equipment to be leased and the economic benefits available to Lessor based on applicable U.S. tax laws and regulations.

4) For purposes of this provision, contemporaneous shall mean within 90 days of execution of the contract by the State when dealing with manufacturers, dealers and brokers and 30 days when dealing with a finance company or subsidiary.

p) Equal Employment Opportunity - In the event of the contractor's non-compliance with the provisions of this Equal Employment Opportunity Clause, the Illinois Human Rights Act or the Rules of the Illinois Department of Human Rights ("Department"), the contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the contractor agrees as follows:

1) That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service, and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.

2) That, if it hires additional employees in order to perform this contract or any portion thereof, it will determine the availability (in accordance with the Department's Rules) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.

3) That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, marital status, national origin or

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service.

4) That it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the contractor's obligations under the Illinois Human Rights Act and the Department's Rules. If any such labor organization or representative fails or refuses to cooperate with the contractor in its efforts to comply with such Act and Rules, the contractor will promptly so notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations thereunder.

5) That it will submit reports as required by the Department's Rules, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Illinois Human Rights Act and the Department's Rules.

6) That it will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the Department's Rules.

7) That it will include verbatim or by reference the provisions of this clause in every subcontract it awards under which any portion of the contract obligations are undertaken or assumed, so that such provisions will be binding upon such subcontractor. In the same manner as with other provisions of this contract, the contractor will be liable for compliance with applicable provisions of this clause by such subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply therewith. In addition, the contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

q) Other Terms and Conditions - Any terms and conditions of sale not set forth herein shall be as set forth in the Illinois order or suborder forms. The Invitation for Bids and State bid form may also give other terms and conditions your bid must meet.

r) Anti-Bribery - By signing the bid or contract, the bidder certifies that it has not bribed or attempted to bribe an officer or employee of the State of Illinois.

s) Insurance - Each vendor shall carry full workers' compensation insurance and public liability insurance sufficient to protect the State's interests.

## Section 1.1410 Amendments

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

EMERGENCY

Contracts may be changed or modified by amendments to the original contract which are approved by the vendor and agency with procurement authority. A supplementary order as defined in Section 1.1140 is considered an amendment. Amendments may pertain to parties, scope of work, time-frame, terms or price but should be allowed only for valid consideration. Price amendments to contracts which cannot lawfully be negotiated may not exceed \$5000 and may not cause the next low price to be surpassed. Price amendments to other contracts may be in amount necessary to accomplish the State's needs. Typographical errors may be corrected or other minor changes made on the contract form if those corrections or changes are initiated by the party to be bound.

## SUBPART N: CONTRACT PERIOD/FISCAL FUNDING

**Section 1.1500 Fiscal Year Contracting**EMERGENCY

Contract must generally end on June 30 of the current fiscal year. If a contract is signed before July 1, performance may be allowed through the July 1-September 30 lapse period and payment may be made from funds of the fiscal year in which the contract was obligated.

**Section 1.1510 Contracts Spanning Fiscal Years**EMERGENCY

- a) All contracts may span fiscal years but must contain a clause that terminates the State's obligations immediately and without further payment being required if the Illinois General Assembly or applicable Federal Funding source fails to appropriate or otherwise make available, funds for the contract.
- b) The following types of contracts have express authorization to span fiscal years.
  - 1) *Printing contracts may be for a period not to exceed two years nor extend beyond June 30 in any odd numbered year except that the term of any contract for the printing of bills, daily calendars, daily journals, Legislative Synopsis and Digest, and other similar public printing primarily for the use of either House of the General Assembly may coincide with the term for which members of the House of Representatives are elected.*

- 2) Contracts for necessary commodities may be contracted for by DCMS on or after April 1 of the current fiscal year for delivery during, and payment from, the next fiscal year.
- 3) Contracts for acquisition of Electronic Data Processing, Duplication, Telecommunications scientific, research and medical equipment may have terms not to exceed seven years. No such contract will be approved by the Department of Central Management Services for a term exceeding 60 months unless the agency

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

requesting such term can demonstrate fiscal benefit to the State, need for equipment for that period of time or other good cause.

- 4) Any contracts which do not obligate funds.

**Section 1.1520 Fiscal Funding Termination Policy**EMERGENCY

Contracts for Electronic Data Processing equipment, payable from the electronic data processing line, may contain a fiscal funding termination provision. The provision will allow payment for equipment in-place between the beginning of the new fiscal year and the date the agency appropriation bill is signed and for such additional period of time that the agency uses the equipment. Such payments to be at the previous contract rate and only if unencumbered funds exist in the appropriate line item.

**Section 1.1530 Preference in Funding**EMERGENCY

No agency may contractually agree to give preference in funding to one contract over another.

**Section 1.1540 Notice of Failure of Funding**EMERGENCY

The using agency will give the vendor all notice possible of a failure of funding. It is not possible to give specific advance notice of such failure because exact level of funding is not certain until agency appropriation bills are signed.

## SUBPART O: CONTRACT PRICING AND FINANCING

**Section 1.1600 Allowable Price Structure**EMERGENCY

Any type of contract pricing which will promote the best interests of the State may be used provided that cost-plus-a-percentage-of-cost contracts are prohibited. A cost-reimbursement contract may be used only when a determination is made in writing that such a contract is likely to be less costly to the State or that it is impracticable to obtain goods or services except under such a contract.

**Section 1.1610 Firm Pricing**EMERGENCY

Contracts costs shall not be increased during the term unless the Invitation for Bids or accepted bid provided for such contingencies. Any increases would have to be in accordance with the contract provision for such increases. If a government regulator of industry prices allows the regulated industry to pass

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

on price increases despite contractual commitments, then that price increase shall be passed on to the State provided full documentation of the increase is sent to the State.

**Section 1.1620 All Costs Included****EMERGENCY**

Unless otherwise allowed by the Invitation for Bids, prices quoted shall be all inclusive covering transportation, transit insurance, delivery, installation, taxes payable by the State, and any other costs.

**Section 1.1630 Maximum Price for Printing****EMERGENCY**

The price paid for printing may not exceed the price determined on the basis of Chicago market rates for each of the operations involved in the production of a particular printing order. Rates are determined by reference to estimating handbooks and schedules, printer's production catalogs and similar studies. If a study is not available the maximum price shall consist of the closest applicable rate plus no more than 10% greater than the prevailing premium or overtime rate.

**Section 1.1640 Contract Financing****EMERGENCY**

Equipment financing arrangements shall be entered into for equipment listed in Section 1.1510(b)(3) and for other equipment if State debt is not incurred. All such contracts shall be payable from current revenues only, will not be backed by the full faith and credit of the State and all such obligations must be subject to legislative appropriations. The interest rate charged must be within the limited provided by "An Act relating to the issuance and use of Credit Cards" (Ill. Rev. Stat. 1981, ch. 17, pars. 6001 et seq.). Additional requirements are as follows:

- a) Contract Directly with Equipment Vendor: All financing costs are established by the contract with the vendor and are either included in the rate or separately stated. This form of financing is permissible. The State retains the ability to withhold payment in event of equipment or service problems.
- b) Assignment of Payment Right: It is permissible for a vendor to "sell the paper" and receive from a third-party the discounted contract price. There is no State involvement in the assignment and no change in the relationship between State and vendor. The vendor remains fully obligated to perform and State shall withhold any payments for non-performance.
- c) Provision in Invitation to Bid for Third-Party Financing: If a vendor proposes a third-party to handle contract financing and the terms are stated in the proposal for evaluation, then this type of financing is permissible. Any contract should clearly state the continued

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

obligation of the equipment vendor and this should be backed by an adequate performance bond. Withholding of payment to the third-party because of an equipment or service problem is to be negotiated to the State's satisfaction.

- d) Vendor Provided Third-Party Financing: If a vendor wishes to utilize the services of a third-party to do the actual contracting, but does not disclose this in the proposal, the request will be denied unless unusual circumstances exist. In such a case the following is to be considered:
  - 1) Vendor's name must be on the contract.
  - 2) Price over time cannot exceed price quoted by vendor.
  - 3) Must be able to withhold payment.
  - 4) Should verify that a better rate cannot be obtained.

**Section 1.1650 Prevailing Wage Required****EMERGENCY**

- a) For the following classifications and if competition exists, no bidder will be awarded a contract unless its employees are paid wages, benefits and are working under conditions prevalent in the location where the work is to be performed.
  - 1) Public works
  - 2) Printing
  - 3) Janitorial services, window washing and security guard services having a monthly contract price of \$200 or a yearly price of \$2,000.

- b) Prevailing wage and conditions prevalent means the hourly wage rate, overtime, holiday pay, pension, welfare, premium differential, vacation pay and other benefits received by employees and the environmental conditions under which they work.

- c) Prevailing wage rates, benefits and conditions will be those in effect on the first date of the contract, provided that if the rate changes during the contract term and the amount of change is known before execution of the contract, then the contract rate will vary in like amount. If the increase cannot be determined in advance the contract will be increased by the amount of the contract or the agency may cancel the contract. If the initial prevailing wage, etc. cannot be determined prior to execution, contracts may be entered into and will remain valid for the stated term.

- d) If a collective bargaining agreement is in effect governing the type of printing, janitorial, window washing or security guard service sought, that agreement will define minimum wages, benefits and conditions that must be paid in order for a bidder to be considered responsible.

- e) For Public Works, location means the county where the physical work upon public works is performed, except

- 1) that if there is not available in the county a sufficient number of competent skilled laborers, workers and mechanics to construct



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

the public works efficiently and properly, "locality" includes any other county nearest the one in which the work or construction is to be performed and from which such person may be obtained in sufficient numbers to perform the work and that, with respect to contracts for highway work with the Department of Transportation of this State, "locality" may at the discretion of the Secretary of the Department of Transportation be construed to include two or more adjacent counties from which workers may be accessible for work on such construction.

f) For Printing Contracts, location means one of the following areas:

- 1) Cook County
- 2) Boone, Bureau, Carroll, Champaign, DeKalb, DeWitt, DuPage, Ford, Fulton, Grundy, Hancock, Henderson, Henry, Iroquois, Jo Daviess, Kane, Kankakee, Kendall, Knox, Lake, LaSalle, Lee, Livingston, Logan, Marshall, Mason, McDonough, McHenry, McLean, Mercer, Ogle, Peoria, Platt, Putnam, Rock Island, Schuyler, Stark, Stephenson, Tazewell, Vermillion, Warren, Whiteside, Will, Winnebago, Woodford.
- 3) Adams, Alexander, Bond, Brown, Calhoun, Cass, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Franklin, Gallatin, Greene, Hamilton, Hardin, Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Macon, Macoupin, Madison, Marion, Massac, Menard, Monroe, Montgomery, Morgan, Moultrie, Perry, Pike, Pope, Pulaski, Randolph, Richland, Saline, Sangamon, Scott, Shelby, St. Clair, Union, Wabash, Washington, Wayne, White, Williamson.
- 4) Where the printing is performed in a plant outside the jurisdiction of this State, it shall be deemed produced in the Illinois locality in which delivery of the printing ordered is required to be made. Where such printing is required to be delivered to more than one Illinois locality, such printing shall be deemed produced in the Illinois locality to which the largest dollar volume of printing under the contract is to be delivered.
- g) For janitorial services, window washing and security guard services location means the county in which the work is to be performed.
- h) Prevailing wages, benefits and conditions will be determined by the Illinois Department of Labor except for Printing which will be determined by the DCMS. The Department of Central Management Services will request information each April from interested parties by placing notice in the Official State Newspaper, posting in DCMS printing offices and direct inquiry. DCMS may utilize services of the Department of Labor. The results of the inquiry if no collective bargaining agreement is discovered will be tabulated and the rate set at a level to allow the majority of firms to bid. Rates will be effective for the fiscal year following determination.

SUBPART P: PERFORMANCE

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

### Section 1.1700 Full Compliance EMERGENCY

By submitting a bid the bidder agrees to comply with all applicable laws and rules and with the specific requirements set forth in the Invitation for Bids. A waiver of a requirement on one occasion will not be construed as a waiver on subsequent occasions unless a written directive indicates the waiver as permanent.

### Section 1.1710 Deliveries EMERGENCY

- a) Upon order. Deliveries shall be made upon written order of the Procuring Agency at the times and in the amounts specified in the Invitation for Bids and in such orders for delivery. Acceptance of any late deliveries shall not constitute a waiver of any of the rights of the State under its contract with the vendor. The State may reject unapproved early deliveries if the delivery imposes a hardship on the user.
- b) Delivery point. All deliveries shall be made to the point or points specified in the Invitation for Bids.
- c) Freight prepaid in all cases. Even if the Invitation for Bids specifies F.O.B. some point (such as manufacturers plant) other than the using agency the bidder must prepay all transportation charges to the location of the using agency. The bidder may then be reimbursed for the cost of transportation from the F.O.B. point to the delivery point by adding the freight charges to the invoice accompanied by the receipted freight bill. The State reserves the right to route all shipments contracted on a F.O.B. shipping point basis.
- d) Bidder is responsible for delivery in all cases. If the using agency reimburses the vendor for part or all the transportation charges, the vendor is nevertheless responsible for delivery to the point of destination, and shall file any claims with the carrier for breakage or other losses.
- e) Trade-in equipment. If an item of equipment is offered in trade, it shall be the responsibility of the successful bidder to remove it from State property at his expense. No invoice will be approved for payment until such equipment is removed. Reasonable care will be taken of the equipment offered in trade, however, the State will assume no obligation to make extensive repairs to maintain it in the same condition as at the time of inspection. Bidders should expect changes in condition due to normal wear and depreciation and shall accept it in the condition found at the time of transfer.
- f) Packaging and crating. All commodities or equipment shall be delivered strongly and securely packed, according to accepted commercial practice and the packaging and marking instructions in the Invitation for Bids. No change shall be made for packing cases, baling, crating, barrels, drums, sacks or other containers except that

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

if the vendor so specified in the bid, the vendor may make a memorandum charge and require the using agency

- 1) to return such containers for credit with transportation costs paid by the bidder, or
- 2) to pay for them if not returned in a reasonable length of time.

**Section 1.1720 Inspection****EMERGENCY**

- a) All goods subject to inspection. Any commodities or equipment that fail in any respect
  - 1) to meet the specifications,
  - 2) to conform to the vendor's samples or
  - 3) are not in good condition when delivered,
 will be subject to rejection. Where items are covered by Federal specifications requiring grading certificates, the State of Illinois reserves the right to have the items reinspected or graded even though shipments may be covered by United States Department of Agriculture or United States Department of Commerce grading certificates.
- b) Notice to bidder. Notice of any such rejection based on defects that should be disclosed by ordinary methods of inspection will be given to the bidder within a reasonable time after delivery of the item. Notice of latent defects which make the items unfit for the purpose for which they are required may be given at any time within one year after delivery.
- c) Bidder must remove rejected items. The vendor must remove immediately at his own expense, any item rejected. If the vendor fails to remove the items, the State may sell them and remit the proceeds of the sale (less any expenses incurred in the sale) to the vendor.
- d) Inspection at source. In some cases inspection of the commodities or equipment will be made at the factory, plant or other establishment where they are produced or grown.
- e) Inspection of premises. The contractor shall permit access to and inspection of his premises by authorized representatives of the State of Illinois at all reasonable times.

**Section 1.1730 Assignments by Successful Bidder****EMERGENCY**

- a) Contract non-assignable without approval. Except as otherwise provided in this Part, a successful bidder shall not assign his interest in the contract without the consent in writing, of the Procuring Agency.
- b) Assignment for financing. The immediate preceding provision to the contrary notwithstanding, claims for money due or to become due under the contract may be assigned to a bank, trust company or other reputable financial institution. Notice of any such assignment must be given by the vendor to the using agency and the Comptroller

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

immediately after the assignment is made, and the invoice-voucher submitted by the vendor must clearly show both its name and address and its assignee's name and address. The warrant issued by the Comptroller will be payable in such case jointly to the vendor and the assignee, and will be forwarded to the assignee. Any such assignment shall be subject to the set-off rights of the State provided in The State Comptroller Act (Ill. Rev. Stat. 1981, ch. 15, pars. 210.12 and 210.13). See Section 1.1640 regarding contract financing for additional considerations.

**Section 1.1740 Submission of Invoice Vouchers****EMERGENCY**

- a) Invoice voucher form furnished by State.
  - 1) Invoice Vouchers will be furnished by the using agency. To bill the State the bidder must fill out the State invoice voucher form. The bidder should keep a copy for his files as indicated on the invoice voucher, and at the time the bidder delivers the good or service the bidder should submit the remaining copies to the using agency as directed on the invoice voucher unless otherwise indicated on the contract. Invoice is to be sent to the agency ordering the goods or services. Bills for printing must be sent to and receive approval of the Department of Central Management Services. Approval is given after verification of
    - A) mathematical accuracy,
    - B) compliance with contract terms and
    - C) that any modifications to the contract were in accordance with agency understandings.
  - 2) Department of Central Management Services will forward approved bills to the ordering agency for payment. The invoice vouchers should give a complete and detailed description of the goods or services delivered.
  - c) Partial payments. If more than one shipment is required under the contract the State will make partial payment of the contract price as it receives the vendor's invoice vouchers relating to the separate deliveries.
  - d) Computation of cash discounts.
    - 1) If the bidder allows a cash discount, the period of time in which the State must make payment to qualify for the discounts will be computed from the date the using agency
      - A) receives the invoice voucher (correctly filled out) or
      - B) receives and officially accepts the goods or services, whichever is later.
    - 2) In addition, if any goods or services are rejected, all time from the mailing of the notice of rejection to the acceptance of items delivered shall be excluded from the discount period. The cash discount will be computed on the selling price of the item or

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

items, only, not on the selling price plus the amount of freight if stated separately.

## SUBPART Q: VENDOR COMPLAINTS

**Section 1.1800 Performance Monitoring****EMERGENCY**

It is the responsibility of the agency receiving goods or services to monitor vendor performance. Whenever a vendor fails to deliver on time, fails to meet specifications or for other such causes, the agency shall initiate a complaint to the vendor.

**Section 1.1810 Initial Complaint****EMERGENCY**

For relatively minor infractions, the agency should initiate contact by telephone or in person. If not resolved by this action a written complaint should be made.

**Section 1.1820 Written Complaint****EMERGENCY**

If the initial complaint is not satisfactorily answered or for serious infractions, the agency is to send a written complaint to the vendor detailing the problem. For handling complaints regarding contracts established by DCMS, a DCMS provided complaint form is to be used for processing complaints.

**Section 1.1830 Complaints to be Filed****EMERGENCY**

A copy of all written complaints shall be filed with the agency with primary procurement authority for the good or service in question. Information regarding the resolution of the complaint shall also be filed.

**Section 1.1840 Prompt Action Essential****EMERGENCY**

Reporting by the receiving agency must be done promptly. This is important because:

- a) Delay in following up on a complaint may make it difficult to establish the vendor's failure to perform because, among other reasons, the available evidence is sometimes not easily preserved.
- b) Delay on part of the State in calling any vendor's attention to his failure to perform may create the impression that the State of Illinois does not enforce uniformly the obligations of all persons having State Contracts.
- c) Extreme delay may also constitute a waiver of the State's right to

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

- d) demand full performance under the contract in question. When complaints are not filed promptly, the State may find itself in an inconsistent position of awarding further business to an undeserving vendor who has performed poorly, but whose performance has not formally been brought to the attention of a Procuring Agency.

**Section 1.1850 Grounds for Complaint****EMERGENCY**

In the following cases, a written complaint shall be prepared by the receiving agency:

- a) Failure to deliver. The goods or services are not delivered within the time specified in the contract and as ordered by the receiving agency.
- b) Failure to meet specifications. The item(s) does (do) not conform to the sample submitted by the vendor at the time he submitted his bid.
- c) Not in good condition. The item(s) is (are) not in good condition when delivered.
- d) Other breach of contract. Any other failure on the part of the vendor to perform according to the provisions of his contract with the State may be noted in a written complaint.

**Section 1.1860 Action by Receiving Agency****EMERGENCY**

- a) After sending the original of the complaint to the vendor, the receiving agency shall take all necessary and appropriate steps to ensure contract compliance in resolution of the complaint by the vendor.
- b) The only actions by the vendor the receiving agency has the authority to accept as satisfactory adjustment of a complaint are:
  - 1) The vendor corrects the breach of contract complained of by supplying commodities, equipment or printing meeting all the requirements of the contract.
  - 2) In cases involving commodities or printing only, the vendor and the State may agree to decrease or increase the quantity to reflect a small shortage caused by breakage or a small overage caused by mass production or any other reason, if there is a custom in the trade that such shortages or overages may be excused. Decreases or increases may be accepted by the receiving agency if the shortage or overage is not more than 10 percent. There may be instances when a decrease or increase of more than 10 percent may be acceptable, however, in such instances authority to reject or accept must be granted in writing by the agency with procurement authority. Such authority may take the form of approving a written cancellation or amendment form.
- c) If the vendor proposes to make an adjustment by
  - 1) substituting an alternative kind of commodity or equipment in



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

place of the kind called for by the contract, or

- 2) reducing the contract price by a certain amount to compensate for some failure to provide full performance under the contract (except as provided in (b)(2) above),
- such proposal must be referred to and approved by the agency with procurement authority.

## SUBPART R: TERMINATION OR RESCISSION OF CONTRACT BY STATE

**Section 1.1900 Cancellation for Breach of Contract****EMERGENCY**

In any of the following cases the Procuring Agency shall have the right to terminate or rescind any contract entered into under these Purchasing Rules:

- a) In the event the successful bidder fails to furnish a satisfactory performance bond within the time specified.
- b) In the event vendor fails to make delivery at the place or within the time specified in the contract or as ordered by the Procuring Agency.
- c) In the event any goods or services provided under the contract are rejected (for not meeting specification, not conforming to sample, or not being in good condition when delivered) and are not promptly replaced by the vendor. If there are repeated rejections of the vendor's goods or service this shall be ground for termination or rescission even though the vendor offers to replace the goods or services promptly.
- d) In the event the vendor is guilty of misrepresentation (for example, misbranding of food or drugs) in connection with the contract of another contract for the sale of goods or services to the State that he cannot reasonably be depended upon to fulfill his obligations as a responsible vendor under any of his contracts with the State.
- e) In the event the vendor should be adjudged bankrupt; enter into a general assignment for the benefit of his creditors or receivership due to insolvency; or disregard laws and ordinances, rules, or instructions of a purchasing official contracting officer; or act in violation of any provision of the contract or this Part; or if the contract conflicts with any statutory or constitutional provision of the State of Illinois or of the United States.
- f) In the event of any other breach of contract or other unlawful act by the vendor.

**Section 1.1910 Cancellation for Fraud, Collusion, Illegality, Etc.****EMERGENCY**

- a) The Procuring Agency may cancel any contract it established if there is sufficient evidence to show that:
  - 1) The contract was obtained by fraud, collusion, conspiracy, or other unlawful means, or;
  - 2) The contract conflicts with any statutory provision of the State

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

of Illinois or of the United States.

- b) The Procuring Agency will notify the Attorney General of the facts upon which such termination or rescission is based in order that he may take such action as he deems appropriate.

**Section 1.1920 Withholding Monies to Compensate State for Damages**  
**EMERGENCY**

If a contract is terminated or rescinded under Sections 1.1900 or 1.1910, the State may deduct from whatever is owed the vendor on that or any other contract an amount sufficient to compensate the State of Illinois for any damages suffered by it because of the vendor's breach of contract or other unlawful act on his part on which the cancellation is based.

**Section 1.1930 Damages****EMERGENCY**

The damages for which the State may be compensated as provided in Section 1.1920 or by a suit on the vendor's performance bond or by other legal remedy shall include, but is not limited to the following:

- a) the additional cost of goods or services bought elsewhere,
- b) cost of repeating the procurement procedure,
- c) any expenses incurred because of delay in receipt of goods or services, and
- d) any other damages caused by the vendor's breach of contract or unlawful act.

## SUBPART S: SUSPENSION AND DEBARMENT

**Section 1.2000 Suspension****EMERGENCY**

A bidder or prospective bidder may have eligibility to do business with the State suspended upon a showing of just cause. Suspension may apply only to a particular agency in which case that agency's procuring division shall make the decision. A suspension may apply State-wide in accordance with instructions from or actions by the agency with centralized procurement responsibility for the particular good or service.

**Section 1.2010 Term of Suspension****EMERGENCY**

A bidder or prospective bidder may be suspended for a reasonable period of time commensurate with the seriousness of the offense. An agency may not suspend a vendor for more than one year. The suspension will be effective within seven calendar days of receipt of notice unless an objection is filed. If an objection is filed, suspension would not become effective until the evaluation of the objection is completed.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

**Section 1.2020 Causes for Suspension**  
**EMERGENCY**

The following shall be sufficient grounds for suspension:

- a) Breach of contract.
- b) Delivery of goods or performance of services which do not comply with the specifications of the vendor's contract with the State.
- c) Failure to perform within the time specified in the contract or order.
- d) Failure to keep offer firm for length of time specified by the bidder in his bid.
- e) Failure to provide performance bond when required by Invitation for Bids.
- f) Collusion with other bidders or prospective bidders to restrain competitive bidding.
- g) Giving information in an application for inclusion on a bidder's list that is later found to be false or materially misleading.
- h) Any substitution of an article, even though of the same quality, without first securing the written consent of the Procuring Agency.
- i) Bankruptcy or other evidence of insolvency of the bidder.
- j) Any other facts causing substantial doubts as to whether the bidder will continue to be a responsible bidder who can be relied upon to fulfill his obligations under this Part and under any contract awarded to him.
- k) Any violation of Illinois or federal law or rule which would make it inadvisable for the State to deal with such bidder.
- l) Revocation of Department of Human Rights Public Contract number.
- m) Failure to honor warranties or to make equitable adjustment or replacements for damaged goods.
- n) Failure to provide prevailing wages and benefits where required by law.
- o) Any other violation of this Part.

**Section 1.2030 Debarment****EMERGENCY**

Debarment is the permanent suspension of a bidder or prospective bidder from doing business with the State. A debarment may only take place in those instances involving bribery or attempted bribery of a State of Illinois officer or employee or as otherwise allowed or required by law.

**Section 1.2040 Ineligible List****EMERGENCY**

The Department of Central Management Services shall maintain a master list of all suspension and debarments. Each agency shall send notice of suspension within that agency to DCMS as the suspensions occur. The Master List will retain information concerning suspensions and debarments as public records. Such records will be maintained for a period of at least three years following

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

the end of the suspension or debarment. Such public information may be considered in determining responsibility.

## SUBPART T: PROTEST OR OBJECTIONS

**Section 1.2100 General****EMERGENCY**

The Procuring Agency shall consider all protests or objections regarding a procurement action which are timely submitted. If the protest or objection is oral and cannot be immediately resolved, written confirmation must be timely submitted as shown below. If the written protest is not received by the time specified, the oral protest may be disregarded and award may be made in the normal manner. Each protest or objection must contain a full and concise statement of the facts and circumstances of the action which is alleged to be objectionable, why the action is objectionable legally or otherwise and a statement of the relief sought. The Procuring Agency may require additional details at any time. Failure to supply information requested by the Procuring Agency will be cause for dismissal of the protest.

**Section 1.2110 Time and Place for Protest or Objections****EMERGENCY**

Written protests or objections regarding a procurement action or decision must be received by the Procuring Agency at its main office within seven calendar days of the objectionable action.

**Section 1.2120 Suspension of Award****EMERGENCY**

Where a written protest against the making of an award is received, award shall not be considered final until the matter is resolved unless the Procuring Agency determines that:

- a) The items to be procured are urgently required; or
- b) Delivery or performance will be unduly delayed by failure to make award promptly; or
- c) A prompt award will otherwise be advantageous to the State.

**Section 1.2130 Evaluation of Protest or Objection****EMERGENCY**

- a) The Procuring Agency shall immediately investigate the allegations against the procurement action. The nature of the allegations will determine the investigative procedure utilized:

- 1) In all actions suspending or debarring a bidder, the bidder will be required to submit a written statement as required above. After investigation of the allegations the Procuring Agency will issue a written response. The bidder may then request a meeting

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

within seven calendar days of receipt to refute the agency findings. Both parties may question each other on matters pertaining to the action. Formal rules of evidence will not apply nor will a formal record be kept. The decision of the Procuring Agency is final.

- 2) In all other procurement actions, such as contract interpretation or termination, bid procedures, specifications or evaluations, the bidder will be required to submit a written statement as required above. The Procuring Agency will investigate the allegations and will issue a written response. An oral presentation may be allowed to clarify the written response. Due consideration will be given to each protest but a lesser consideration will be given to protests regarding procurements of goods or services covered by Section 1.530. The decision of the Procuring Agency is final.

- b) Each Procuring Agency may further define these procedures to comply with organizational or statutory requirements.

**Section 1.2140 Additional Administrative Remedies****EMERGENCY**

- a) A supplier of printing services removed or not allowed on the bid list may appeal to the Governor after first exhausting Procuring Agency appeals. The Governor shall issue a written decision which shall be final. Appeal must be made within seven days of notice of DCMS final action.

- b) The Illinois Court of Claims provides judicial hearings and has exclusive jurisdiction to hear and determine the following matters:

- 1) All claims against the State founded upon any law of the State of Illinois, or upon any regulation thereunder by an executive or administrative officer or agency, other than claims arising under the Workers' Compensation Act (Ill. Rev. Stat. 1983, ch. 48, pars. 138.1 et seq.) or the Workers' Occupational Diseases Act (Ill. Rev. Stat. 1983, ch. 48 pars. 172.36 et seq.), or claims for expenses in civil litigation.
- 2) All claims against the State founded upon any contract entered into with the State of Illinois.
- 3) All claims against the State for damages in cases sounding in tort, if a like cause of action would lie against a private person or corporation in a civil suit, and all like claims sounding in tort against the Medical Center Commission, the Board of Trustees of the University of Illinois, the Board of Regents of Southern Illinois University, the Board of Regents of the Regency Universities System or the Board of Governors of State Colleges and Universities; provided, that an award for damages in a case sounding in tort, other than certain cases involving the operation of a State vehicle described in this paragraph, shall not exceed the sum of \$100,000 limit prescribed by this Section

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

does not apply to an award of damages in any case sounding in tort arising out of the operation by a State employee of a vehicle owned, leased or controlled by the State. The defense that the State or the Medical Center Commission or the Board of Trustees of the University of Illinois, the Board of Regents of Southern Illinois University, the Board of Regents of the Regency Universities System or the Board of Governors of State Colleges and Universities is not liable for the negligence of its officers, agents, and employees in the course of their employment is not applicable to the hearing and determination of such claims.

- 4) All claims for recoupment made by the State of Illinois against any claimant.

## SUBPART U: SOCIOECONOMIC PROGRAMS

**Section 1.2200 General****EMERGENCY**

The Department of Central Management Services is authorized under various laws to give special consideration in the award of State contracts to certain classifications of business and not-for-profit concerns. The Department is also authorized or required to give or require that certain firms or individuals be given special consideration in regard to State contracts and subcontracts. This Subpart describes those special considerations.

**Section 1.2210 Small Business List****EMERGENCY**

## a) Set-Aside

The Department of Central Management Services will determine, pursuant to Section 4 of the Small Business Purchasing Act, categories of goods for service procurements which may be accomplished by small business. Each Procuring Agency must contact DCMS to determine whether a particular procurement should be set-aside for small business. The set-aside designation may be made for current and future procurements of specific good, service or for a class of like goods or services. A set-aside designation may last indefinitely or for a stated period of time. Current small business set-asides are:

Building & Grounds Maintenance  
Carpentry  
Carpet Cleaning  
Court Reporting  
Dry Cleaning  
Exterminating  
Hauling  
Janitorial  
Mechanical Serv. (Equip. Repair)



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

- Moving  
Painting  
Plumbing  
Roofing  
Security  
Trash Removal  
Welding  
Window Shade, Venetian Blind & Drapery Cleaning  
Window Washing  
Window Washers List
- b) The Department of Central Management Services will maintain a list of responsible bidders that meet the criteria of small business. A business that fits the definition of small on day of bid opening will be considered small for the duration of the contract.

c) Required Use  
If a Procuring Agency wishes to procure goods or services covered by a set-aside designation, it must solicit bids from responsible small business, whether on the list or not. Bids received from large business will be rejected as non-responsive.

d) Withdrawal of Set-Aside  
If the Department of Central Management Services determines that acceptance of the best bid will result in the payment of an unreasonable price, the Department shall reject all bids and withdraw the designation of small business set-aside for the procurement in question. When a small business set-aside is withdrawn, notification shall be sent to all small business explaining why their bids were rejected. After withdrawal of the small business set-aside, Invitations for Bid shall be issued in accordance with the limitations of the "Illinois Purchasing Act" and this Part.

e) Criteria for Small Business  
Unless the Department of Central Management Services provided a definition for a particular procurement which reflects industrial characteristics, a small business is one:

- 1) Independently owned and operated.
- 2) Not dominant in its field of operations. This means the business does not exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining dominance, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreement, facilities, sales territory and nature of business activity.
- 3) With annual sales for most recently fiscal year no greater than
  - A) \$7,500,000 for wholesale business,
  - B) \$3,000,000 for construction business, or
  - C) \$1,500,000 for retail business.
- 4) With no more than 250 employees if a manufacturing business,

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

- A) A manufacturing business shall calculate how many people it employs by determining its average employment, based on the number of persons employed on a full-time, part-time, temporary or other basis during the pay period ending nearest the last day of the third month in each calendar quarter for the third month in each calendar quarter for the preceding four quarters.
- B) If a manufacturing business has not been in existence four full calendar quarters, its average employment should be calculated during the period it has been in existence based on the number of persons employed during the pay period ending nearest the last day of each month.
- 5) That is both a wholesaler and a retailer has combined wholesale and retail annual sales for its most recently completed fiscal year no greater than \$7,500,000. The retail component may not exceed \$1,500,000.
- 6) When computing the size status of bidder, the number of employees and annual sales and receipts, as applicable, of the bidder and all affiliates shall be included. Concerns are affiliates when either directly or indirectly controls or has the power to control the other, or when a third party or parties controls or has the power to control both. In determining whether concerns are independently owned and operated and whether or not affiliation exists, consideration shall be given to all appropriate factors, including use of common facilities, common ownership and management and contractual arrangements. However, a franchise relationship shall not affect small business status if the franchise has the right to profit commensurate with ownership and bears the risk of loss or failure.

# Section 1.2215 Minority and Female-Owned Business EMERGENCY

## a) Introduction

The Minority and Female Business Enterprise Act (Ill. Rev. Stat. 1991, ch. 127, par. 132.601 et seq.) [30 ILCS 575] (Act) authorizes the establishment of sheltered markets for minority and female-owned business, sets a minimum 10% expenditure goal for State contracts, and creates the Minority and Female Business Enterprise Council (Council) to oversee the Minority and Female Business Enterprise Act.

## b) Goal

The Governor, all departments, officers, boards, commissions, institutions and bodies politic and corporate of the State, including the governing boards of the various State colleges and universities (from this point forward referred to as state agency or agency unless specifically exempted) and excepting other constitutional officers, shall establish a goal that at least 12% of the dollar value of State contracts be awarded to minority and female-owned businesses. Of that

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

12%, 5% shall be for female-owned businesses, 2% for businesses owned by persons with disabilities and not-for-profit agencies for the disabled and the remaining 5% for other minority-owned businesses.

c) Contracts and Expenditures Subject to Act

1) Agencies subject to the goal established above shall include under this program all contracts funded in whole or in part with funds appropriated by the General Assembly, unless exempted elsewhere in this Part. Funds shall be excluded from the Minority and Female Business Enterprise Act program if receipt of those funds would be jeopardized by including them in the program.

2) The following are not considered to be contracts or resulting expenditures subject to the Act:

- A) employee wages, salary and other payroll related costs
- B) contracts between State agencies not including payments to private vendors
- C) contracts with other governmental entities
- D) refunds of money
- E) payments of money to individuals or groups in the nature of reimbursement, settlement, entitlement, or assistance
- F) where the contract is subject to federal reimbursement

d) Council Review of Contract Categories

The Council shall, pursuant to Section 7(2) of the Minority and Female Business Enterprise Act, review each appropriation object as found in the State Finance Act (Ill. Rev. Stat. 1991, ch. 127, par. 137 et seq.) [30 ICs 105] and detail objects found in the Comptroller's Uniform Statewide Accounting System Manual. If after investigation it is determined that one or more minority or female-owned firms are currently capable of providing goods or services in particular categories, those categories shall remain as subject to the goal. If, however, investigation shows no minority or female-owned firms are currently engaged in providing the particular good or service in question then the Council shall consider removing the category and associated expenditures from the goal for the current fiscal year. Such removal shall occur only if the Council also finds that there is no reasonable expectation that minority or female-owned firms will enter the field during that fiscal year. Any action to remove a category from the goal under this section shall be by written resolution passed by the Council. Pursuant to Section 7(2) of the Minority and Female Business Enterprise Act the Council has determined the following detail objects are exempt from the goal.

Assistance Payments to Individuals  
 Association Dues  
 Awards and Grants to Students  
 Awards, Benefits and Treatment Expenses - Injured Employees  
 Burial Expense Awards  
 Community Services for DMHDD and Chemically Dependent  
 Court of Claims Awards

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

Debt Retirement

Electricity

Employee Tuition Fees

Fire Protection Services

Gas (Natural Gas)

Grants for Educational Purposes - School Districts

Grants for Educational Purposes - Higher Education

Grants to Local Governments (other)

Grants to Non-Profit Organizations

Grants to Other State Agencies

Grants to or on behalf of Veterans and their Dependents

Industrial Commission Awards or Settlement Awards for Injured Employees

Interviewee Expenses

Land (Relocation Costs)

Land, Relocation Costs (Highways)

Land, Relocation Costs (Waterways)

Land, Right of Way and Easements

Land, Rights of Way and Easements (Highway)

Land, Rights of Way and Easements (Waterways)

Legislative Staff Services

Loans

Lottery Prizes

Operating Taxes, Licenses and Fees

Payments into Pension Funds

Payments to Local Governments for Employees

Pensions, Annuities and Benefits

Postage and Postal Charges

Purchase of Investments

Refunds

Registration Fees and Conference Expenses

Reimbursement for Living Expenses for State Wards Outside State

Institutions

Reimbursements to Governmental Units

Retirement

Revenue Stamps

Shared Revenue Payments

Shared Waterway Agreements

Social Security

Taxes and Transfers

Tort Claims

Tuition, Training Supplies and Equipment for Aided Persons

Unemployment Compensation Payments

University Central Data Processing Services

University Central Supply Services

University Central Telecommunication Services

University Central Transportation Services

University Central Plant Services

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

Utilities (Other)  
Water

## e) Council Review of Specific Contracts

Any State agency may ask that the Council exempt specific contracts from the goal. Justification of the exemption request must include documentation of outreach efforts to identify and use Minority Business Enterprise (MBE's) and Female Business Enterprise (FBE's), the anticipated expenditures in each area where an exemption is requested and the total agency appropriation. Upon written request by any State agency the Council shall exempt specific contracts from the goal if the agency can show that a diligent effort failed to locate one or more minority or female-owned businesses that could perform the contract at a reasonable price. A diligent effort requires solicitation of appropriate vendors from the master vendor list maintained by the Council, checking with the Council for updates to the list, and advertising in the official State Newspaper and locally if in the judgment of the procuring agency it is more likely to reach minority and female-owned business. In addition, when the decision to procure is first made the procuring agency shall provide as much information about the procurement as is then available to the Secretary and shall provide a copy of the Invitation for Bid, Request for Proposal or other solicitation information when in final form. Whether price quoted is reasonable will be determined by the Council based upon current market prices, historical prices, prices received by other agencies for similar goods or services, the policy of the Minority and Female Business Enterprise Act to promote minority and female-owned business and other such relevant factors. Any action regarding a request for specific exemption shall be by resolution passed by the Council.

## f) Goal Measurement

1) The goal shall be measured on a full fiscal year basis. The goal shall be measured against the total amount of covered expenditures. Expenditures not covered are those mentioned in subsections (c)(2), (d) and (e) above.

2) Certain procuring agencies such as the Department of Central Management Services and the Capital Development Board are responsible for establishing contracts for other (user) agencies. Those procuring agencies shall be responsible for meeting the goal for such contracts even though the user agency may have the appropriation to fund the contract. To properly account for the goal in these situations the following procedures shall be followed:

A) The user agency shall review its budget and subtract from its appropriation in each major or minor object code the amount anticipated to be spent on contracts established by the procuring agency. The amount anticipated to be spent on contracts established by the procuring agency shall be reported to the Department of Central Management Services.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

- B) Those amounts reported by user agencies to Department of Central Management Services shall be assigned by the Secretary to the appropriate procuring agency. Such amounts will be included in the amount upon which the procuring agency goal is based. This procedure does not result in money actually being transferred from the user agency to the procuring agency. Rather, the transfer is for compliance plan accounting purposes only.
- C) If a procuring agency delegates procurement authority to a user agency, the procuring agency's goal base shall be reduced in amount of the delegation and the user agency's goal base shall be increased in like amount.
- D) If the user agency transfers money from a line subject to procuring agency authority, the procuring agency's goal base shall be reduced by that amount and the user agency's goal base in the major or minor object code receiving the transfer shall be increased.

## g) Minority and Female Status

- 1) Minority or female-owned business refers to for-profit enterprises regardless of form of organization (sole proprietorship, partnership or corporation).
- 2) A female-owned business shall be counted or included for sheltered market and goal purposes as a female-owned business regardless of the ethnicity of the female owner or owners.
- 3) For a business to qualify as minority-owned, only those minorities who are male shall be counted or included for sheltered market and goal purposes except that a firm which is owned 50% by minority males and 50% by minority females shall be considered a minority-owned business for purposes of the Act.
- 4) A business owned by a person with a disability or a not-for-profit agency for the disabled shall be counted or included for sheltered market and goal purposes as a business owned by a person with a disability regardless of the ethnicity or gender of the owner or owners. Said classification will be made for the sole purpose of facilitating consistent accounting of agency contract awards to businesses covered by the Minority and Female Business Enterprise (MAFBE) Act and is not intended to preclude such businesses or not-for-profit agencies from receiving any contract that may be awarded under the MAFBE Act or any other contract award procedure used by State agencies and universities.

## h) Sheltered Market

- 1) Procuring agencies are authorized to limit prospective vendors to minority and/or female-owned businesses or to require that vendors utilize minority and female-owned subcontractors for certain categories of contracts or for specific contracts. When a sheltered market set-aside is made the advertisement and/or bid document, if applicable, shall clearly state the contract is



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

available for only minority and/or female-owned business. Sheltered market set-asides may be effective for such period of time and for such number of contracts as the Procuring Agency determines is necessary to reach the goal.

- 2) Sheltered market set-asides shall be used by procuring agencies as the primary means of meeting the contracting goal when the quarterly progress reports indicate the goal established in the agency's compliance report is not or will not be met and the goal is not modified by mutual agreement between the agency and the Department.
- 3) Each procuring agency shall notify the Secretary in writing ten days prior to establishment of a set-aside.
- 4) If the procuring agency determines that acceptance of the set-aside bid will result in payment of an unreasonable price, the procuring agency shall reject the bids. The agency shall then either rebid under the set-aside or withdraw the set-aside designation for the particular procurement. Before a set-aside may be withdrawn, the procuring agency shall submit to the Secretary a written statement detailing why the price given is unreasonable. The Secretary shall respond within three working days approving the withdrawal of the sheltered market if, based upon current market prices, historical prices, prices received by other agencies for similar goods or services, the policy of this Act to promote minority and female-owned business and other such relevant factors, the price appears to be unreasonable. If the Secretary determines the price is reasonable the request to withdraw will be denied. If no answer is received the set-aside may be withdrawn. When a set-aside is withdrawn, the procuring agency shall notify each minority or female-owned firm that bid explaining why the set-aside was withdrawn. The procuring agency shall provide a copy of the notice to the Secretary.
- 5) Procuring agencies shall consider reducing or eliminating bond requirements when allowed by law and when the reduced bond amount would adequately protect the State's interests.
- 6) Any contract awarded to a minority or female-owned business pursuant to this Section may contain a provision allowing advance or progress payments or both. A construction contract may not contain an advance payment provision. The advance or progress payment provision may be added to a contract at any time by agreement of the parties. Procuring agencies shall consider initiating use of such provisions and shall consider requests from minority and female-owned businesses to include such provisions in State contracts. Section 9.05 of the State Finance Act (Ill. Rev. Stat. 1991, ch. 127, par. 145f) [30 ILCS 105/9.05] may be applicable to contracts with such provisions.
- 7) Only certified minority and female-owned businesses may participate in sheltered markets.
- 8) The governing boards of State colleges and universities are not

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

required to comply with this subsection (h) and may establish their own rules governing topics described in this subsection (h).

- i) Subcontracting
  - 1) Agency goals may be satisfied in part by counting expenditures made by State vendors to certified minority and female-owned businesses as subcontractors.
  - 2) Agencies may require that vendors agree to contract with minority or female-owned business as subcontractors so that up to 10% of the project costs are paid to the minority or female-owned subcontractor.
  - 3) Agencies shall not require that a vendor enter into subcontracts with minority and female-owned business when subcontracting is not necessary for the vendor to perform.
  - 4) When minority or female-owned subcontractors are required, the vendor may be required to designate them by name and anticipated expenditure as a part of the bid. Alternatively the bid may merely require that the vendor hire the necessary subcontracting to meet the subcontractor expenditure requirement.
  - 5) If no vendor can locate minority or female-owned subcontractors willing to subcontract or if a designated minority or female-owned subcontractor is later unable or unwilling to perform, the vendor shall be excused from having to comply with the requirement provided a good faith effort was made to locate or replace the needed minority or female-owned subcontractor.
  - 6) Good Faith Effort
    - A) A good faith effort shall, at a minimum, consist of the following:
      - i) contacting the Minority and Female Business Enterprise Division of the Department of Central Management Services (Division) at least 15 days prior to need and requesting referrals from the certified vendor list and from any other list maintained by the Division.
      - ii) advertising in the Official State Newspaper or a local newspaper as time permits.
      - iii) contacting appropriate organizations such as unions, contractor associations, and minority or female oriented organizations.
    - B) Any vendor claiming good faith relief must fully document, in writing, the steps taken to obtain minority and female-owned subcontractors. The procuring agency may require additional information if the submittal does not meet the criteria stated above.
  - 7) If a good faith exception is given, the procuring agency shall notify the Secretary of the Minority and Female Business Enterprise Council of the exception and shall include all pertinent information.
  - 8) A vendor who obtains a contract requiring hiring of minority and

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

female-owned subcontractors and who fails to do so and who does not qualify for a good faith exception is subject to having the contract cancelled and shall be liable for any damages the State may suffer because of the cancellation and need to find a substitute contractor.

## j) Minority and Female-Owned Business Certification

1) Each minority and female-owned business, whether in a direct or subcontract relationship with the State, must be certified in accordance with the provisions of this Part established by the Council before the business is eligible to bid for or accept a contract or subcontract under the set-aside authorized by subsection (h). The primary purpose of the certification process is to determine if ownership is by minorities or females and to determine if minorities or females have operational control of the firm.

2) No agency may count expenditures with a non-certified vendor toward meeting the goal.

3) Vendors shall be self-certified upon submission of the Bidder's Application Form issued by the Department of Central Management Services and approved by the Council provided the information on the form is complete and accurate and indicates on its face that it is a minority or female-owned business as defined by the Act. This self-certification is valid until revoked for failure to provide additional information necessary to complete the Bidder's Application Form or for failure to comply with program eligibility requirements of the Minority and Female Business Enterprise Act or of this Part.

4) The full certification procedure is more detailed and requires that the Secretary (Manager of the Minority and Female Business Enterprise Division of the Department of Central Management Services) make determinations. The Secretary shall present, annually, a plan for subjecting self-certified firms to the full certification procedure. Such plan shall give first priority to those self-certified firms who have been or are about to be awarded a contract under the program. After that, priority will be determined by the date of the bidder's application form. In addition, the Secretary will in the event of an internal or third party challenge to the status of any self-certified firm conduct a full certification. The full certification procedure is outlined below.

## 5) Application

- A) The firm seeking certification must obtain a MBE/FBE application package which includes:
- A letter of transmittal summarizing the program.
  - Form IL-401-1318 Application for MBE/FBE Certification.
  - Form IL-401-1319 Application for MBE/FBE Joint Venture Certification Application.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

B) Form IL-401-1318 or IL-401-1319 must be completed, and all required attachments to meet the tests under subsections (j)(11), (j)(12), (j)(13), (j)(14) and (j)(15), or a written explanation of their absence, must be submitted before a determination of eligibility can be made. A sufficient explanation for the absence of required attachments is that they do not exist or do not apply to the applicant. The application package may be obtained from the Minority and Female Business Enterprise Division of the Department of Central Management Services (Division). The completed form must be returned to the Division.

## 6) File Preparation

A) The Division staff will establish a file for each application received and the following information will be recorded into an alphabetized log, entitled "MBE/FBE Applications Received":

- date of application
- date received
- name of firm
- name of principal (usually the President)
- address
- telephone number
- type of certification sought (MBE or FBE)
- nature of the firm's business (products or services provided)

B) The same information will be recorded in the applicant's file on a form entitled "Receipt of Application Report".

## 7) The Initial File Review for Accuracy and Completeness

The file will be reviewed to ensure the following:

- All portions of the application form have been completed (including required attachments), marked not applicable (N/A.) or a satisfactory explanation for lack of completeness has been provided.
- The application form is signed by the owner or manager and notarized. The notary cannot be an owner or a shareholder.
- Missing documents or explanation of their absence will be noted, and the applicant will be requested to comply with an information request. If the applicant has indicated the firm has certified status through another organization, but no letter of certification has been included, the letter shall be requested at this time.
- Beginning at this point, notes on all phone calls and other contacts with the applicant will be recorded on the MBE/FBE interview form.
- Second File Review Other MBE/FBE Certifications  
Certification by other entities such as the state and local governments or vendor associations will be accepted by the Council, provided that the other entities' certification

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

procedures equal or exceed the standards set forth in this Part and provided that the Council has investigated their certification procedures and has entered into an agreement that the standards will not be changed without prior notification to the Council. The Division staff shall ensure that the other entities' certification requirements continue to equal or exceed the standards set forth in this Part and can therefore be accepted by the Council. The Division will accomplish this by annually reviewing the other entities' requirements and verifying that they equal or exceed standards of this Part. If the other entities requirements no longer equal or exceed the requirements of this Part and they refuse to make needed adjustments, the Division will no longer accept that entities' certifications. The Division will review each such certification, beginning with the most recent, and act to revoke certifications of those vendors who do not meet the requirements of this Part. Certifications previously issued by that other entity will be honored until revoked by the Secretary.

## 9) Additional Data Collections

If the applicant has not been previously certified as a MBE/FBE, the Division staff will conduct a personal interview with the applicant which may include a telephone interview and/or an announced on-site visit. During the on-site visit, the Division staff will use Form IL-401-1318 or Form IL-401-1319, whichever is appropriate and the site visit checklist to collect information to verify the application. The on-site visit will be completed upon review and approval of the completed application. The on-site visit may be triggered at any point during the certification process to verify compliance or at any point prior to the time of recertification.

## 10) Determination of Eligibility

Upon completion of a thorough examination of all information gathered from all sources (the application form, site visit, prior history, and other source data), the Division staff will begin the process to determine eligibility. The goal should be to complete the entire certification process within 60 days of completion of the initial review under subsection (j)(7) including determination of eligibility, submission of recommendation to the Secretary and completion of the certification decision. Each element in the determination process is based upon the requirements of the Act and the eligibility standards determined by the Minority and Female Business Enterprise Council, and therefore must be satisfied before an applicant can be certified. Each standard must be answered completely before another one is considered. If a firm fails to meet one of the eligibility standards, no further consideration shall be given to the application and the certification shall be denied or a certified firm shall be

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

decertified, and notified of the appeal process.

## 11) First Test

A business which has annual gross sales for its most recent fiscal year of less than \$14 million is eligible for the program. A business with gross sales of \$14 million or more in its most recent fiscal year is eligible to participate in the program if the business can show that if it were to receive a particular contract or subcontract there would be a significant impact on employment of minority or female individuals or in the use of minority or female owned subcontractors or suppliers. For the impact to be significant in terms of employment, the business would have to hire new employees with a full time equivalence to 50% of their work force and at least 51% of those new hires must be minority or female individuals. For the impact to be significant in terms of use of subcontractors or suppliers, the business must direct 75% of the value of the contract to minority or female owned subcontractors or suppliers and agrees to appropriate enforcement mechanisms, such as bonding or damage provisions, the Council will approve award of a contract to such business.

## 12) Second Test

The second test the applicant must meet is whether the firm is owned and controlled by a person who is a citizen or lawful permanent resident of the United States. Proof of citizenship or permanent residency must be confirmed by a birth certificate, naturalization papers, permanent resident status documents, passports or other documents.

## 13) Third Test

A) The third test is whether the applicant firm is owned or controlled by a person who is a minority or female.

B) Documentation such as birth certificates, passports, naturalization papers, Indian rolls, is required, if available, as proof that the owners are in one of the eligible groups (see Section 2 of the Act):

- i) Black - a person having origins in any of the black racial groups in Africa.
- ii) Hispanic - a person of Spanish or Portuguese culture with origins in Mexico, South or Central American or the Caribbean (regardless of race).
- iii) American Indian or Alaskan Native - a person having origins in any of the original people of North America.
- iv) Asian American - a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands.
- v) Female - a person who is a citizen or lawful, permanent resident of the United States, and who is of the female gender.



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

- C) If a person does not have documentary evidence or if it is not sufficient, the Secretary will consider, amongst other evidence submitted, whether the person is identified with or commonly recognized as belonging to an eligible group, has held himself out to be a member of one of the groups, has acted like a member of the community of one of the groups, and would be identified by a person at large as one of the groups.

## 14) Fourth Test

The fourth test which must be met by an applicant is that the firm must be at least fifty-one percent (51%) owned by one or more minority or by one or more females or in the case of a corporation, at least fifty-one percent (51%) of the stock must be owned by one or more minority persons or one or more females. The ownership shall be real, substantial and continuing. To determine interest in the firm, as the standards indicate, the committee must look beyond the ownership stated as a matter of form. Real is defined as a bona fide investment in the firm done at arms length and in good faith. Substantial is defined as the investment necessary to initiate a business in light of the type of work to be done, the organization of the concern, and the potential resources of the financial relationship with other businesses. The application should be carefully reviewed to determine:

- A) If the minority or female ownership is 51% or more  
 B) If the minority or female owners obtain ownership by gift or inheritance or make substantial contribution in terms of expertise, money, etc. The contribution is analyzed in such a way as to disclose whether the investment in the firm reflects the asserted ownership interest. The Secretary will consider the following, amongst others, as indicators of insufficient contribution:
- i) minimal cash outlay or personal investment.
  - ii) a promise or agreement to contribute capital.
  - iii) a note payable to the firm or other owners who are not minority or female.
  - iv) contributions for services rather than capital, except where services are unique, specialized or of a value commensurate with the ownership value of such services.
  - v) no recourse loans where the borrower assumes no liability for repayment upon default.
  - vi) no recourse stock purchases wherein the purchaser assumes no liability upon default of payment other than transaction of shares.
- C) Indicators of insufficient stock transactions include, but are not limited to, the following:
- i) minimal cash outlay or personal investment,

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

- ii) a promise or agreement to buy stock,
  - iii) stock issued, but not purchased,
  - iv) stock certificates purchased but not in the possession of the minority or female owner, and
  - v) stock held in trust or as a guardian for a minor.
- D) The minority or female owner must, except in the case of gift or inheritance, provide evidence of payment, monetary or in kind or experience for their share of the ownership. Examples of evidence include but are not limited to cancelled checks, bookkeeping entries, signed agreements. The following items will also be reviewed:
- i) stock certificates,
  - ii) stock transfer ledgers,
  - iii) proof of stock purchases (if any),
  - iv) stockholder agreements (if any),
  - v) partnership agreements (if any),
  - vi) profit sharing agreements (if any),
  - vii) buy-out-rights agreements, and
  - viii) other related documents.
- E) It will be determined if the minority or female owner paid the investment with a loan from a non-minority or male former employer or stockholder. Lack of proof of payment monetary or in kind will result in denial of certification or decertification.

## 15) The Fifth Test

The fifth test the applicant must meet is that the minority or female person be in direct control of the day to day operations of the firm, as well as have the power to make major decisions on management, policy, fiscal, and operational matters. To make the determination the following items will be reviewed for evidence of non-minority or male control:

- A) Articles of incorporation will be reviewed to determine whether the minority or female owner was involved at the time of incorporation and in what way. If the minority or female owner was not involved at the time of incorporation, the time when he or she became involved in the firm and the manner in which it was done will be determined.
- B) Corporate By-Laws will be reviewed to determine:
- i) the duties of the directors and officers who occupy these positions,
  - ii) the voting rights of the shareholders, and
  - iii) any restrictive language which may affect the minority or female stockholder's voting rights.
- C) Stock options/shareholders agreements which if exercised, will dilute or eliminate minority or female control.
- D) Does the minority or female make decisions independently?
- E) Review of resumes should determine whether the minorities or females have sufficient background including education and

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

training for responsibilities assigned. However, no minimum educational or training requirements are imposed.

F) The following will be determined:

- i) the minority or female owner continues to work for a non-minority firm. If so, what is the relationship of the firm to the applicant firm?
- ii) who in the firm negotiates contracts loans, prepares estimates and makes other management and supervisory decisions?

## 16) Notification of Approval

When the Secretary has determined that all conditions of this Part have been met, the Secretary will notify the applicant by letter that such approval is made. This approval is for a period of one year from the date of the letter and may be renewed in accordance with subsection (j)(20). Such approval may be rescinded at any time within the year if it is determined that the applicant no longer satisfies the eligibility standards for a MBE/FBE. At this time the applicant is entered into the state's MBE/FBE Directory and the Division file as a certified MBE/FBE.

## 17) Notification of Denial

When the Secretary determines that the applicant firm does not meet the requirements of this Part and the Act, the Secretary shall send a letter by certified mail to the applicant setting forth the rationale for the determination, inviting the applicant to provide additional information in the areas of concern and advising the applicant of the review process. The Secretary shall remove the applicant from the list of certified vendors.

## 18) Review and Reconsideration

A) The Secretary shall inform the applicant of the decision within six months of receipt of the request for reconsideration. If the Secretary fails to inform the applicant within the six month period, the reconsideration request will be considered denied. If the decision is not favorable to the applicant or if no decisions is rendered within the six month period, the Secretary shall inform the applicant of additional reviews that are available.

B) The applicant may request that the Council's Certification Committee, made up of at least five parties appointed by the Council's chair, review the reconsideration decision of the Secretary. This request must be submitted to the Secretary in writing and must be actually received by the Secretary no later than 45 days after applicant received the Secretary's decision. The request must state why applicant believes the Secretary's decision is wrong, must address all points raised in the Secretary's decision and must include any supporting documentation.

C) Upon receipt of the request for review, the Secretary shall contact the Council's Certification Committee, inform them

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

of the request, and establish a date and time to meet and review relevant information. The Secretary will attempt to schedule the meeting between 15 and 30 days after receipt of the request for review. The meeting shall be held in Springfield or Chicago unless the Committee agrees to meet at some other location. The applicant will be informed of the meeting schedule by letter mailed at least 10 days prior to the meeting date.

D) Prior to the meeting the Secretary shall provide each Committee member with a copy of the request for review and of the Secretary's file on the matter. In addition, the Secretary shall prepare and submit to the Committee a draft response to the points raised in the request for review. Each Committee member shall review the files prior to the meeting. Any Committee member may ask questions of the Secretary and the Secretary shall ensure that the questions and answers are provided to each Committee member.

E) Only the applicant, the applicant's representative, the Secretary, the Secretary's necessary assistants, the Committee members and necessary witnesses may be present. Although the applicant may have an attorney or other representative assist at the meeting, applicant must be present if any representative is present and applicant must respond to questions of the Committee. The meeting shall be conducted in an informal manner within these procedures and all information obtained shall be considered.

F) The Committee Chair shall call the meeting to order, shall announce the matter at issue and explain how the meeting will be conducted. Each party in attendance shall be identified. The Chair shall briefly restate the reasons given for the Secretary's decision and open the floor to the applicant.

G) The applicant may make an opening statement but must respond to each of the reasons given in the Secretary's decision. The applicant may call and question any witnesses. The Committee may ask questions of the applicant, the Secretary or any other person present. The Secretary may comment at any time and when applicant is finished the Secretary may call any witnesses. Both applicant and Secretary may make closing statements.

H) After listening to the applicant and the Secretary, the Committee shall dismiss all persons present. The Committee shall meet in private to discuss the matter and shall make a decision from information obtained from the meeting. The decision will be based upon majority vote of the Committee.

I) If the decision is favorable to the applicant, the Committee shall inform the Secretary. The Secretary will place the applicant on the list of certified vendors. The Secretary

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

shall notify the applicant, the Committee and the Council of this action.

- J) If the decision is adverse to the applicant, the Committee shall inform the Secretary. The Secretary shall notify the applicant and the Council of this action. The applicant shall also be informed of the Committee's reasons and told of the next review procedure. Notice to the applicant shall be by certified mail.
- K) The applicant may ask that full Council review an adverse decision of the Certification Committee. The request must be submitted to the Secretary in writing and must actually be received by the Secretary no later than 15 days after applicant received the Committee's decision. This request must state why applicant believes the Committee's decision is wrong, must address all points raised in the Committee's decision and must include any supporting documentation.
- L) The Secretary shall provide each Council member with a copy of the second request and a copy of the Secretary's file on the matter for review. In addition, the Secretary shall prepare and submit to the Council a draft response to the points raised in the second request for review. The Secretary shall consult with the Committee prior to submitting the draft.
- M) The Council shall consider the second request at the next regularly scheduled Council meeting provided that the second request was received by the Secretary at least 21 days prior to the Council meeting. If received after that time the matter will be considered at the next following Council meeting. The applicant will be told of the location, date and time of the meeting.
- N) The Council shall consider only the written information provided or produced by the applicant, the Certification Committee and the Secretary. The Council may, on its own, request that the applicant address the Council or respond to specific questions. Although applicant may have an attorney or other representative assist at the meeting, the applicant must be available to respond to Council questions. The Council will allow the applicant to address the Council if such request is made as part of the second request.
- O) After reviewing all information obtained, the Council shall vote to uphold the Committee's decision, overturn the Committee's decision or have the matter sent back to the Committee for reconsideration with instructions from the Council.
- P) If the decision is favorable to the applicant, the Council shall inform the Secretary. The Secretary shall place the applicant on the list of certified vendors. The Secretary shall inform the applicant.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

- Q) If the decision is adverse to the applicant, the Council shall inform the Secretary. The Secretary shall notify the applicant.
- R) If the decision is to send the matter back to the Committee, the process shall continue from that point until resolved at the Committee or Council level.
- S) For purposes of this level of subsection, all notices shall be evidenced by certified mail receipt and/or an entry in the certification log maintained by the Minority and Female Business Enterprise Division.

## 19) Decertification

- A) A firm that is certified (either self or full) may have that status challenged by the State or some third-party.
- B) Upon receipt of information which questions the validity of a MBE or FBE certification, the Secretary shall conduct an investigation which may include on-site or telephone interviews, review of existing records submitted pursuant to subsection (j)(5)(B) or collection and examination of new records to supplement, explain or clarify records previously submitted.
- C) If the investigation results in a finding that the firm is not or no longer eligible for MBE or FBE status, the Secretary shall notify the firm that it is decertified. The review and reconsideration procedures found in subsection (j)(18) are available to the firm that is given a decertification letter. After decertification the applicant may not apply for readmission to the program until one year has passed since the date of decertification. A certification of the applicant by another entity shall not be accepted during the one year period following decertification.

## 20) Recertification Process

- A) Forty-five days prior to expiration of a certification the Division staff will identify the firm and mail certified with return receipt an application for Certification as a Minority Business Enterprise/Female Business Enterprise. A cover letter will advise the firm to complete and return the application prior to the 15th day before the expiration of the current certification. Firms that fail to meet this deadline will be decertified.
- B) If the applicant submits the material 15 days before the expiration of the current certification, the original certification shall remain in effect until the Secretary completes the recertification process.
- C) Upon receipt of the recertification application the Division staff will review it for changes which affect eligibility under the Act or this Part.
- D) If no such changes have occurred, the Secretary will grant



DEPARTMENT OF CENTRAL MANAGEMENT SERVICES  
NOTICE OF EMERGENCY REPEALER

recertification. If changes in the business give rise to questions regarding eligibility, the Secretary will notify the firm requesting clarification and/or additional information.

E) When all questions of eligibility have been clarified, the Secretary will issue a new certification good for a period of one year.

F) If the Secretary determines that the firm is not eligible, a denial letter will be sent and the firm is eligible to initiate the appeal process.

k) Minority and Female-Owned Business List

1) The Council shall maintain a list of businesses that have been certified as minority or female-owned businesses. This list shall be made available to all procuring agencies.

2) Any lists of minority or female-owned business maintained by procuring agencies shall be forwarded to the Council.

l) Change of Status

1) Any contract awarded under a set-aside may not be assigned to another vendor without permission of the Secretary.

2) Should a vendor who received a contract under the set-aside cease to qualify as minority or female-owned during contract performance because of subsequent business transfer, reorganization or other similar actions, the procuring agency may cancel the contract immediately without penalty to the State.

3) Any change of the minority and female business status of a certified minority and female business shall be reported to the Council by both the vendor and the procuring agency.

m) Penalty to Vendor

The following penalties may be assessed in accordance with the Minority and Female Business Enterprise Act.

1) Refusal to supply proof or additional proof of status when claiming minority or female status shall result in suspension from participation in sheltered market programs for a period not to exceed one year.

2) Refusal to supply additional proof of status pursuant to subsections (j)(4) and (j)(6) above after receiving a contract under a set-aside shall result in suspension from receiving any additional State contracts for a period of one year and if in the State's interest, cancellation of existing set-aside contracts without penalty to the State. In determining whether to cancel an existing set-aside contract, the State shall consider the cost of utilizing another vendor, availability of another vendor, delivery time and other such factors.

3) Accepting a contract under any sheltered market procurement when the vendor does not qualify as a minority or female-owned business pursuant to subsections (i)(4) and (i)(6) above shall result in suspension from all State bidding and contracting for a period of one year. If it is in the State's interest the

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES  
NOTICE OF EMERGENCY REPEALER

contract may be cancelled immediately without penalty to the state. In determining whether it is in the State's interest to cancel an existing set-aside contract, the State shall consider the cost of utilizing another vendor, the availability of another vendor, delivery time and other such factors. In addition, if the vendor knowingly misrepresented its status the amount of profit applicable to amounts paid to the vendor shall be withheld from any amounts owed to the vendor. If the amount owed the vendor is insufficient to off-set profits the vendor shall be liable to pay back to the State any balance thereof. The profit rate shall be deemed 20% unless a lesser or greater amount can be conclusively proved.

4) Governing boards of State colleges and universities may establish rules governing penalties.

n) If the Secretary finds a business in violation of the Minority and Female Business Enterprise Act or of this Part, the Secretary shall report such violation to the Illinois Attorney General. Any such violation found by any State agency or any person should be reported to the Secretary as soon as practicable after the finding.

o) Agency Compliance

1) Each agency, other than the governing boards of State colleges and universities, shall submit a compliance plan annually. The Council shall establish the format and timetable for submission of the plan. The Council shall approve the plan if it meets the requirements of this Part and the Minority and Female Business Enterprise Act.

2) The governing boards of State colleges and universities shall submit an annual report identifying by university and by campus their total appropriation, expenditures by major object code, expenditures with minority and female owned businesses broken down by major object code, expenditures with minority and female owned businesses broken down by major object code, expenditures with minority and female owned businesses broken down by ethnicity, and the names and addresses of minority and female business receiving contracts or subcontracts. The annual report shall also identify any significant accomplishments relating to the program.

3) The Council on its own motion or upon request of a procuring agency shall recommend ways in which the procuring agency may reach its goal. Upon finding by the Council that a procuring agency's compliance plan, as presently adopted or implemented, is insufficient to reach the agency goal, the Council shall recommend ways in which the agency can reach its goal. Such recommendations shall include but not be limited to the following (See Act, Section 2):

A) assurances of stronger and better focused solicitation efforts to obtain more minority and female owned businesses as potential sources of supply;

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

- B) division of job or project requirements, when economically feasible, into tasks or quantities to permit participation of minority and female owned businesses;
- C) elimination of extended experience or capitalization requirements, when programmatically feasible, to permit participation of minority and female owned businesses;
- D) identification of specific proposed contracts as particularly attractive or appropriate for participation by minority and female owned business, such identification to result from and be coupled with efforts to subparagraphs (i) through (iii);
- E) implementation of those regulations established for the use of the sheltered market process.

- 4) If the compliance plans or quarterly reports indicate the agency goal will not be reached, the Council will request the agency head to appear before the Council and explain the agency's non-compliance. If the Council determines the agency is not making a serious effort to reach the goal, the Council will then prepare a report for submission to the Governor with recommendations for remedial action.

- p) Professional and Artistic Contract Reporting  
Professional and artistic contracts, which must be reported to the Council pursuant to Section 6a of the Act, shall be reported as follows:

- 1) Notice that a professional or artistic contract has been entered into or that the agency or university intends to enter into one shall be given to the Council on the same day that the contractor or first potential contractor is contacted. Notice may be hand delivered or given by fax.

- 2) The notice shall include the agency name and address; contact person; contract reference number; date bid or proposal was first available; return dates and opening dates; term of the contract; services to be provided; special requirements; and dollar value. Notice should be given on the form available from the Department.

Department of Central Management Services

Minority and Female Business Enterprise Office  
William G. Stratton Building, Room 801

Springfield IL 62706

- 3) If the professional or artistic contract is advertised in the Official State Newspaper in accordance with Section 4 of the Illinois Purchasing Act, reporting as described above is not required.

## Section 1.2220 Criteria for Small Business (Recodified)

EMERGENCY

## Section 1.2225 Sheltered Workshops for the Disabled

EMERGENCY

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

## a) Contracting Goal

The Department of Central Management Services shall promote the procurement of goods and services from qualified sheltered workshops for the disabled.

## b) Set-Aside and Promotion

1) The Department will determine categories of goods and those services under the procurement jurisdiction of the Department which may be accomplished by sheltered workshops for the disabled. Each procuring agency must contact DCMS to determine whether a particular procurement should be set-aside for sheltered workshops. The Set-aside designation may be for current or future procurements either on a specific or general need basis. A set-aside may last indefinitely or for a stated period of time.

2) For services not under the jurisdiction of DCMS, agencies are encouraged to utilize the services of sheltered workshops for the disabled.

## c) Sheltered Workshop List

The Department shall maintain a list of all qualified sheltered workshops and shall provide that list to interested State agencies.

## d) Bids and Pricing Approval

1) Competitive bidding is not required prior to contracting with a sheltered workshop but prices must be reasonable. The Department of Central Management Services should be contacted when using this procedure to ensure proper handling. Whether a price is reasonable will be determined based upon current market prices, historical prices, prices received by other State agencies for similar goods for services, the policy of the Act (Section 7-1 of the Illinois Purchasing Act) to promote procurements from sheltered workshops and other such relevant factors.

2) The State Use Committee must approve contracts for reasonableness of price if

A) the good or service would ordinarily be subject to bid, or  
B) the good or services is bid and the sheltered workshop is selected even though not the lowest responsible bidder.

3) State Use Committee approval is not required if:

A) the contract does not exceed the bid limit and no bidding was conducted, or  
B) the contract is let to the sheltered workshop as low bidder on a competitive bid.

4) When Committee approval is required it will be given or denied in an expeditious manner so as not to disrupt procurement activities. Consideration will be at quarterly meetings or through special telephone meetings conducted between regular meetings.

e) Criteria for Sheltered Workshops for the Disabled

Sheltered Workshops for the Disabled are qualified if the following requirements are met:

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

- 1) complies with Illinois laws governing private not-for-profit organizations,
- 2) is certified as a sheltered workshop by the Wage and Hour Division of the U.S. Department of Labor, and
- 3) meets the standards developed by the Illinois Department of Rehabilitation Services for rehabilitation facilities (See 89 Ill. Adm. Code 530).

**Section 1.2230 Required Use (Recodified)****EMERGENCY****Section 1.2235 Procurement from Vendors with Supported Employees****EMERGENCY**

- a) Authority. State agencies may procure goods and services from a "qualified vendor with an approved supported employment workforce" (SEV) without having to seek competitive bids and may award to a SEV in a competitive procurement even if the SEV is not the low bidder in accordance with the following requirements.

- b) Requirements to Exercise Authority

- 1) Procurements may be made from only those vendors on the SEV list maintained by the Department of Central Management Services (CMS).

- 2) For goods or services under the procurement jurisdiction of CMS, including those delegated by CMS, procuring agencies shall notify CMS/Bureau of Support Services of their intent to utilize a SEV, and CMS must approve such action before a procurement is begun or contract awarded. CMS shall approve provided such action is in conformance with the Illinois Purchasing Act [30 ILCS 505], State Paper Purchasing Act [30 ILCS 5510], State Printing Contracts Act [30 ILCS 515] and Standard Procurement Rules [44 Ill. Adm. Code 1].

- 3) For all goods and services which would have to be bid but for the authorization found in Section 8.5 of the Illinois Purchasing Act [30 ILCS 505/8.5] or where the procuring agency chooses a SEV when not the lowest responsible bidder meeting specifications, the procuring agency must obtain approval of the State Use Committee that the price is a fair market price.

- 4) A fair market price will be determined by reference to past prices paid by the procuring agency and any known current pricing available to the procuring agency (each of which must be submitted to the State Use Committee), and the policy to promote SEVs as found in Section 8.5 of the Illinois Purchasing Act [30 ILCS 505/8.5]. A fair market price is not necessarily the lowest price that may be available.

- c) Requirements of SEVs

- 1) SEVs must comply with Illinois laws governing private for-profit enterprises.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

- 2) SEVs must certify that no less than 5%, nor more than 20%, of all employed individuals meet the definition of supported employees and are approved as such by the Illinois Department of Rehabilitation Services (DORS).

- A) Certification shall be made, prior to any contract under these provisions, showing the total number of employees and the numbers of all actively employed supported employees.

- B) On an ongoing basis, each SEV with an approved contract shall provide quarterly reports in the manner and format required by the State Use Committee.

- C) The percent of all employees that are supported employees can be calculated in one of two ways:

- i) The number of supported employees divided by the total of all employees,
- ii) The number of supported employees in non-administrative positions divided by the total of all employees in non-administrative positions.

The method of calculation shall be noted on the certification to be submitted.

- 3) A SEV must provide necessary supports to its supported employees.
  - A) Necessary supports are defined as those supports which are identified by DORS as required to enable that employee to continue and maintain employment.

- B) The program of necessary supports which has been identified to the State Use Division by DORS must be documented and available for review, verification, and/or audit under the conditions of the Freedom of Information Act, at any time for any reason.

- 4) A SEV must provide its supported employees with an integrated work setting. An integrated work setting is one in which no segregated work or recreational space exists for, or is encouraged to be used by, supported employees.

- 5) SEVs must assure that at least 50% of the work expended to produce the goods and services to be sold to the State is provided by supported employees. The method of calculating the percent of work expended on a State contract must be explained in detail on the Certification, and may be calculated in one of the following ways:

- A) The percent of hours expended on the State contract by supported employees must equal at least 50% of all hours expended, or

- B) The percent of pieces produced by supported employees must equal at least 50% of all pieces produced on the State contract, or

- C) The percent of wages (including all benefits) paid to supported employees must equal at least 50% of all wages (including benefits) paid to all employees engaged in the State contract.



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

- 6) SEVs must assure that personal interactions of a supported employment worker in, or associated with, the workplace are with employees of the workplace who are not necessarily supported employees. Any contractor who obtains a contract under this law must certify that a workplace is provided which is conducive to integration of interpersonal relations between supported and non-supported employees.
- 7) SEVs must have a completed Bidders Application Form on file with the Department of Central Management Services.
- 8) SEVs must report to CMS any contract with State Agencies on a quarterly basis.

- d) Monitoring  
Requirements of these rules are subject to monitoring, verification, on-site inspection by appropriate personnel, and/or audit of production and personnel records specific to a contract which might be obtained under the Act.

**Section 1.2240 Withdrawal of Set-Aside (Recodified)****EMERGENCY****Section 1.2250 Small Construction Business Advance Payment Set-Aside (Repealed)****EMERGENCY**

## SUBPART V: JOINT PROCUREMENT AGREEMENTS

**Section 1.2300 General****EMERGENCY**

In an effort to make the procurement process more efficient, State and other governmental units may agree to utilize each others procurement contracts. Agreements between State agencies with procurement authority and other governmental units with taxing authority are governed by this part and "An Act authorizing certain governmental units to purchase personal property, supplies and services jointly (Ill. Rev. Stat. 1981, ch. 85, pars. 1601 et seq.)."

**Section 1.2310 State Use of Other Contracts****EMERGENCY**

State procuring agencies may utilize procurement contracts established by other authorized State agencies or units of government:

- a) if the contract was established by sealed bid or sealed proposal, or
- b) if not required by the Illinois Purchasing Act to be bid, and
- c) if the price is reasonable,
- d) if an existing contract of the Procuring Agency would not be violated, and
- e) if allowed by the vendor, and
- f) if necessary State contract terms can be added, and

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

- g) if State legal requirements are otherwise followed.

**Section 1.2320 Use of State Contracts****EMERGENCY**

Units of local or federal government may utilize contracts established by State agencies with procurement authority:

- a) if the contract was established by sealed bid or sealed proposal, or
- b) if not required to be bid by local or federal requirements, and
- c) if allowed by the vendor.

**Section 1.2330 No Agency Relationship****EMERGENCY**

In any joint procurement situation, the agency establishing the contract does not become the procurement agency for the other. The ordering unit must issue its own purchase order, accept its own deliveries and make its own payments.

**Section 1.2340 Obligations of Participating Governmental Units****EMERGENCY**

If governmental units wish to participate in joint purchasing, involving contracts established by the Department of Central Management Services, several provisions must be established in the interest of maintaining good vendor relations and confidence in the program. This will result in better prices, services and delivery. There are:

- a) Legal authority must exist for governmental unit to make purchases from contracts issued by the State of Illinois. Official action must have been taken by the governing body of the unit authorizing its purchasing officials to participate in such a program.
- b) A copy of the ordinance or resolution passed by the governing body of the governmental unit must be sent to the Department of Central Management Services. The official action shall be binding upon the governmental unit until such time as it is withdrawn in writing.
- c) The governmental unit shall make all purchases under the state contracts for public use only. Purchases through these contracts for the personal use or consumption by any individual, public employee or official are prohibited.
- d) All items delivered under contracts awarded by the Department of Central Management Services should be inspected immediately for compliance with the contract specifications. Governmental units should seek replacement of any items not meeting specifications. Failure of supplies to comply should be called to the immediate attention of the Department of Central Management Services.

**Section 1.2350 Centralized Contracts - Estimated Quantities****EMERGENCY**

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

- a) There are certain centralized contracts for estimated quantities which contain a price extension clause permitting political subdivisions to participate therein. When this clause is contained in the contract, the political subdivision, having previously filed a copy of their ordinance or resolution with the Department of Central Management Services, may use the contract by placing an order directly with the contractor, referring to the state purchase order number. A copy of such an order must also be sent to the Department of Central Management Services for statistical purposes. This data is of extreme value in estimating quantities for future bid invitations.

- b) Political subdivisions using these contracts must comply with the following provisions:

- 1) The state purchase order number as indicated in the "Notice of Awards" must be shown.
- 2) The purchase order must contain a complete description of the item; item number; brand and/or model number; unit of measure; unit price and extension.
- 3) Purchase Orders should not be issued for less than the minimum quantities shown on the "Notice of Awards". A violation of this requirement results in loss of bidders and higher prices to the State and other participating governmental units on future contracts. Vendors are not required to deviate from the terms of their contract. Violations of this requirement by governmental units may be sufficient cause for the State to remove the unit from active participation in joint purchasing.
- 4) Governmental units should read the "Notice of Awards" carefully as it may pertain to catalogs and price lists. In some instances these are furnished by suppliers on request and in other instances suppliers are not required to furnish them but loan copies may be secured by contacting the Procurement Services Division. Every effort is being made to keep supplier costs at a minimum so government can enjoy the lowest price possible.

## Section 1.2360 Centralized Contracts - Definite Quantities

EMERGENCY

- a) Certain items such as foods, ammunition and highway salt, are purchased under definite quantity type of contracts. If interested in such items or other items not covered under the estimated quantity contracts, contact should be made with the Department of Central Management Services by phone.
- b) If the requirements are received after the bid invitation has been issued or if the quantities are too small for centralized purchase or do not lend themselves to joint purchasing, the State will return the requisitions to the governmental units.
- c) Governmental units must consider the following factors prior to filing requisitions for definite quantities:
  - 1) No bids should subsequently be solicited, covering the same

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

items, by any governmental unit filing a requisition. The State issues an award based on the requirements covered by requisitions and this quantity must be ordered regardless of whether or not lower prices may be offered locally. The State does not take bids to obtain estimated prices. Withdrawal from participation after solicitation for bids has been made by the State will not be permitted except in very unusual cases. The practices of withdrawing requisitions could destroy the good faith of the State's bid and might lead to price manipulation with State prices used to "beat down local prices". Such a practice would be detrimental to the interest and integrity of the contracts and to the State's entire purchasing program.

- 2) Any governmental unit having an existing contract shall complete that contract before participating in joint purchasing.
- 3) Overlapping time period must be identified in the joint purchase requisition so there will be no misunderstanding as to whether or not existing commitments will be honored or as to the date a future commitment will begin.
- 4) It should be clearly understood that the governmental unit has delegated its authority to purchase items covered by requisitions and that the resulting award will be made in exactly the same manner as if the requisitions had been submitted by a State agency.
- 5) Specifications established in the bid invitation shall be accepted.
- 6) It must be understood that consideration cannot be given to boundaries of governmental units. It shall be agreed that the location of the vendor will not be a factor in determining the award except as may be established by state law.
- 7) When centralized contracts are for definite quantities or for specific requirements, the units are required to purchase these items from the successful bidder. A bilateral obligation must exist for the successful bidder to sell and deliver and for the buyers to buy. An award cannot be treated by any governmental unit as a price umbrella under which it can maneuver and bargain. Orders shall be placed with the supplier directly by the unit, using its own purchase order forms. A copy of the purchase order must also be sent to the Department of Central Management Services. This copy will be used for statistical purposes and will serve as notice that the governmental unit has complied with the bid action.
- 9) All items delivered under contracts awarded by the State should be inspected immediately for compliance with the contract specifications. The Department of Central Management Services, Purchasing Division, should be notified at once if any of the items deviate from specifications.
- 10) In the event a dispute arises between the governmental unit and successful bidder, it shall be resolved by the disputing parties.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

In exceptional cases, however, the State may offer its services in the resolution of a dispute.

- 11) Governmental unit for which purchase is made shall accept responsibility for direct payment to the vendor within thirty days after receipt of goods.
- 12) An initial supply of joint purchasing requisitions will be supplied to the governmental unit at the time it is placed on the automated mailing list. Additional copies will be supplied by the State of Illinois upon request.

## SUBPART W: MISCELLANEOUS

Section 1.2400 Inspection and AuditsEMERGENCY

Bidder agrees that the State may inspect bidder's plant to ensure conformance with specifications, delivery schedule, working conditions and other relevant considerations. Bidder's books and records pertaining to work done and payments received pursuant to a particular contract will be available for inspection by the State for a period of three years following the end of the contract.

Section 1.2410 No Rights ConferredEMERGENCY

Receipt of an Invitation for Bids or submission of a bid confers no rights to receive an award nor obligates the State in any manner.

Section 1.2420 Government Furnished PropertyEMERGENCY

If the State provides any property to the bidder in furtherance of the contract, such property shall remain the property of the State but may be consumed by the bidder if necessary to complete the contract. Bidder will issue a receipt for the property and will be responsible for its safekeeping and return of unused property to the State.

Section 1.2430 Attempt to Influence AwardEMERGENCY

No person on a bidder's list or who submits or intends to submit a bid shall give or offer to give, directly or indirectly, any money, article, or other thing of value to any State officer or employee which gift is intended in any manner to influence the award or administration of a State contract. Violation of this provision will result in suspension from bidding and may result in debarment.

Section 1.2440 Collusive Bids

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF EMERGENCY REPEALER

EMERGENCY

No person shall agree with another to restrain the competitive procurement process by fixing prices, agreeing not to submit bids or by any other means. If it appears that there is a reasonable basis for believing such an agreement exists, the Procuring Officer shall immediately contact the Attorney General. If the low price appears to have been arrived at by collusion, award will be suspended until the Attorney General notifies the Procuring Officer of the appropriate action.

Section 1.2450 Identical BidsEMERGENCY

Every State agency which obtains two or more identical bids shall inform the Attorney General of such facts, in writing within 30 days following the disposition of all bids received in response to an Invitation, whether by the awarding of contracts or other action, in such form and manner as prescribed by the Attorney General.

Section 1.2460 Proprietary InformationEMERGENCY

Any information submitted by the contract awardee is considered public. Information, other than price information, labeled proprietary which is submitted by an unsuccessful bidder will be held confidential.

Section 1.2470 SeverabilityEMERGENCY

If any provision of this Part or any application thereof is held invalid, such invalidity shall not affect other provisions or applications of this Part which can be given effect without such invalid provision or application.



DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

NOTICE OF EMERGENCY RULES

1) Heading of the Part: Standard Procurement

2) Code Citation: 44 Ill. Adm. Code 1

3) Section Numbers: Emergency Action:

|        |     |
|--------|-----|
| 1.01   | New |
| 1.05   | New |
| 1.08   | New |
| 1.10   | New |
| 1.15   | New |
| 1.25   | New |
| 1.30   | New |
| 1.525  | New |
| 1.1005 | New |
| 1.1010 | New |
| 1.1030 | New |
| 1.1040 | New |
| 1.1050 | New |
| 1.1060 | New |
| 1.1070 | New |
| 1.1075 | New |
| 1.1080 | New |
| 1.1510 | New |
| 1.1525 | New |
| 1.1550 | New |
| 1.1560 | New |
| 1.1570 | New |
| 1.1580 | New |
| 1.1590 | New |
| 1.2005 | New |
| 1.2010 | New |
| 1.2012 | New |
| 1.2015 | New |
| 1.2020 | New |
| 1.2025 | New |
| 1.2030 | New |
| 1.2035 | New |
| 1.2036 | New |
| 1.2037 | New |
| 1.2038 | New |
| 1.2040 | New |
| 1.2043 | New |
| 1.2044 | New |
| 1.2045 | New |
| 1.2046 | New |
| 1.2047 | New |
| 1.2050 | New |
| 1.2055 | New |

DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

NOTICE OF EMERGENCY RULES

|        |     |
|--------|-----|
| 1.2060 | New |
| 1.2560 | New |
| 1.2570 | New |
| 1.2800 | New |
| 1.3005 | New |
| 1.4005 | New |
| 1.4505 | New |
| 1.4510 | New |
| 1.4530 | New |
| 1.4535 | New |
| 1.4540 | New |
| 1.4545 | New |
| 1.4570 | New |
| 1.5013 | New |
| 1.5015 | New |
| 1.5020 | New |
| 1.5030 | New |
| 1.5035 | New |
| 1.5310 | New |
| 1.5510 | New |
| 1.5520 | New |
| 1.5530 | New |
| 1.5540 | New |
| 1.5550 | New |
| 1.6010 | New |
| 1.6500 | New |
| 1.6510 | New |
| 1.6520 | New |
| 1.6530 | New |
| 1.6535 | New |
| 1.7000 | New |
| 1.7010 | New |
| 1.7015 | New |
| 1.7020 | New |
| 1.7025 | New |
| 1.7030 | New |

4) Statutory Authority: 30 ILCS 500 and 30 ILCS 525

5) Effective Date of Amendments: July 1, 1998

6) If this emergency rule is to expire before end of the 150-day period, please specify the date on which it is to expire: Not applicable

7) Date Filed in Agency's Principal Office: July 1, 1998

8) Reason for Emergency: There was not sufficient time to develop proposed rules that could be processed through normal rulemaking and have the rules

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

effective July 1, 1998.

- 9) A Complete Description of the Subjects and Issues Involved: The emergency rules would replace the current procurement rules found at 44 Ill. Adm. Code 1 with a new set of rules to reflect the requirements of the new Illinois Procurement Code. The emergency rules describe rulemaking and procurement authority; the various methods of source selection, including the use of invitation for bids and requests for proposals and a special procedure for processing professional service procurements; type and duration of contracts; preferences for small business and sheltered workshops for the disabled; and various other elements of the procurement process.

Minor editing/clarifying changes have been made, including changes to the following Sections: Sections 1.10; 1.15; 1.1040; 1.1050; 1.1080; 1.4545; and 1.2036.

- 10) Are there any proposed amendments to this Part pending? Yes

| Section Numbers | Proposed Action | Illinois Register Citation |
|-----------------|-----------------|----------------------------|
| 1.01            | New             | 22 Ill. Reg. 8154          |
| 1.05            | New             | 22 Ill. Reg. 8154          |
| 1.08            | New             | 22 Ill. Reg. 8154          |
| 1.10            | New             | 22 Ill. Reg. 8154          |
| 1.15            | New             | 22 Ill. Reg. 8154          |
| 1.25            | New             | 22 Ill. Reg. 8154          |
| 1.30            | New             | 22 Ill. Reg. 8154          |
| 1.525           | New             | 22 Ill. Reg. 8154          |
| 1.1005          | New             | 22 Ill. Reg. 8154          |
| 1.1010          | New             | 22 Ill. Reg. 8154          |
| 1.1030          | New             | 22 Ill. Reg. 8154          |
| 1.1040          | New             | 22 Ill. Reg. 8154          |
| 1.1050          | New             | 22 Ill. Reg. 8154          |
| 1.1060          | New             | 22 Ill. Reg. 8154          |
| 1.1070          | New             | 22 Ill. Reg. 8154          |
| 1.1075          | New             | 22 Ill. Reg. 8154          |
| 1.1080          | New             | 22 Ill. Reg. 8154          |
| 1.1510          | New             | 22 Ill. Reg. 8154          |
| 1.1525          | New             | 22 Ill. Reg. 8154          |
| 1.1550          | New             | 22 Ill. Reg. 8154          |
| 1.1560          | New             | 22 Ill. Reg. 8154          |
| 1.1570          | New             | 22 Ill. Reg. 8154          |
| 1.1580          | New             | 22 Ill. Reg. 8154          |
| 1.1590          | New             | 22 Ill. Reg. 8154          |
| 1.2005          | New             | 22 Ill. Reg. 8154          |
| 1.2010          | New             | 22 Ill. Reg. 8154          |
| 1.2012          | New             | 22 Ill. Reg. 8154          |
| 1.2015          | New             | 22 Ill. Reg. 8154          |

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

|        |     |                   |
|--------|-----|-------------------|
| 1.2020 | New | 22 Ill. Reg. 8154 |
| 1.2025 | New | 22 Ill. Reg. 8154 |
| 1.2030 | New | 22 Ill. Reg. 8154 |
| 1.2035 | New | 22 Ill. Reg. 8154 |
| 1.2036 | New | 22 Ill. Reg. 8154 |
| 1.2037 | New | 22 Ill. Reg. 8154 |
| 1.2038 | New | 22 Ill. Reg. 8154 |
| 1.2040 | New | 22 Ill. Reg. 8154 |
| 1.2043 | New | 22 Ill. Reg. 8154 |
| 1.2044 | New | 22 Ill. Reg. 8154 |
| 1.2045 | New | 22 Ill. Reg. 8154 |
| 1.2046 | New | 22 Ill. Reg. 8154 |
| 1.2047 | New | 22 Ill. Reg. 8154 |
| 1.2050 | New | 22 Ill. Reg. 8154 |
| 1.2055 | New | 22 Ill. Reg. 8154 |
| 1.2060 | New | 22 Ill. Reg. 8154 |
| 1.2560 | New | 22 Ill. Reg. 8154 |
| 1.2570 | New | 22 Ill. Reg. 8154 |
| 1.2800 | New | 22 Ill. Reg. 8154 |
| 1.3005 | New | 22 Ill. Reg. 8154 |
| 1.4005 | New | 22 Ill. Reg. 8154 |
| 1.4505 | New | 22 Ill. Reg. 8154 |
| 1.4510 | New | 22 Ill. Reg. 8154 |
| 1.4530 | New | 22 Ill. Reg. 8154 |
| 1.4535 | New | 22 Ill. Reg. 8154 |
| 1.4540 | New | 22 Ill. Reg. 8154 |
| 1.4545 | New | 22 Ill. Reg. 8154 |
| 1.4570 | New | 22 Ill. Reg. 8154 |
| 1.5013 | New | 22 Ill. Reg. 8154 |
| 1.5015 | New | 22 Ill. Reg. 8154 |
| 1.5020 | New | 22 Ill. Reg. 8154 |
| 1.5030 | New | 22 Ill. Reg. 8154 |
| 1.5035 | New | 22 Ill. Reg. 8154 |
| 1.5310 | New | 22 Ill. Reg. 8154 |
| 1.5510 | New | 22 Ill. Reg. 8154 |
| 1.5520 | New | 22 Ill. Reg. 8154 |
| 1.5530 | New | 22 Ill. Reg. 8154 |
| 1.5540 | New | 22 Ill. Reg. 8154 |
| 1.5550 | New | 22 Ill. Reg. 8154 |
| 1.6010 | New | 22 Ill. Reg. 8154 |
| 1.6500 | New | 22 Ill. Reg. 8154 |
| 1.6510 | New | 22 Ill. Reg. 8154 |
| 1.6520 | New | 22 Ill. Reg. 8154 |
| 1.6530 | New | 22 Ill. Reg. 8154 |
| 1.6535 | New | 22 Ill. Reg. 8154 |
| 1.7000 | New | 22 Ill. Reg. 8154 |
| 1.7010 | New | 22 Ill. Reg. 8154 |
| 1.7015 | New | 22 Ill. Reg. 8154 |

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

1.7020 New 22 Ill. Reg. 8154  
 1.7025 New 22 Ill. Reg. 8154  
 1.7030 New 22 Ill. Reg. 8154

11) Statement of Statewide Policy Objectives: Proposed rules contain a Section for joint purchase of supplies and services that would affect local government.

12) Information and questions regarding this amendment shall be directed to:

Stephen W. Seiple  
 720 Stratton Office Building  
 Springfield IL 62706  
 217/782-9669

The full text of the Emergency Rules begins on the next page:

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT  
 SUBTITLE A: PROCUREMENT AND CONTRACT PROVISIONS  
 CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## PART 1

## STANDARD PROCUREMENT

## SUBPART A: GENERAL

|         |  |
|---------|--|
| Section | Title  |
| 1.01    | EMERGENCY  |
| 1.05    | Policy   |
| 1.08    | Purpose and Implementation of This Part                        |
| 1.10    | Application  |
| 1.15    | Definition of Terms Used in This Part                          |
| 1.25    | Property Rights  |
| 1.30    | Constitutional Officers, and Legislative and Judicial Branches |

## SUBPART B: PROCUREMENT RULES

|         |           |
|---------|-----------|
| Section | Rules     |
| 1.525   | EMERGENCY |

## SUBPART C: PROCUREMENT AUTHORITY

|         |   |
|---------|---|
| Section |   |
| 1.1005  | Exercise of Procurement Authority             |
| 1.1010  | Appointment of State Purchasing Officer       |
| 1.1030  | Associate Procurement Officers                |
| 1.1040  | Central Procurement Authority of the CPO      |
| 1.1050  | Procurement Authority of the SPO; Limitations |
| 1.1060  | Delegation                                    |
| 1.1070  | Toll Highway Authority                        |



## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

EMERGENCY  
1.1075 Department of Natural Resources  
EMERGENCY  
1.1080 Illinois Mathematics and Science Academy  
EMERGENCY

## SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section  
1.1510 Illinois Procurement Bulletin  
EMERGENCY  
1.1525 Bulletin Content  
EMERGENCY  
1.1550 Official State Newspaper  
EMERGENCY  
1.1560 Supplemental Notice  
EMERGENCY  
1.1570 Error in Notice  
EMERGENCY  
1.1580 Direct Solicitation  
EMERGENCY  
1.1590 Retention of Bulletin Information  
EMERGENCY

## SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section  
1.2005 General Provisions  
EMERGENCY  
1.2010 Competitive Sealed Bidding  
EMERGENCY  
1.2012 Multi-Step Sealed Bidding  
EMERGENCY  
1.2015 Competitive Sealed Proposals  
EMERGENCY  
1.2020 Small Purchases  
EMERGENCY  
1.2025 Sole Economically Feasible Source Procurement  
EMERGENCY  
1.2030 Emergency Procurements  
EMERGENCY  
1.2035 Competitive Selection Procedures for Professional and Artistic Services  
EMERGENCY  
1.2036 Other Methods of Source Selection  
EMERGENCY  
1.2037 Tie Bids and Proposals  
EMERGENCY

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

1.2038 Mistakes  
EMERGENCY  
1.2040 Cancellation of Solicitations; Rejection of Bids or Proposals  
EMERGENCY

## SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section  
1.2043 Suppliers  
EMERGENCY  
1.2044 Vendor List/Required Use  
EMERGENCY  
1.2045 Prequalification  
EMERGENCY  
1.2046 Responsibility  
EMERGENCY

## SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

Section  
1.2047 Security Requirements  
EMERGENCY

## SUBPART H: SPECIFICATIONS AND SAMPLES

Section  
1.2050 Specifications and Samples  
EMERGENCY

## SUBPART I: CONTRACT TYPE

Section  
1.2055 Types of Contracts  
EMERGENCY

## SUBPART J: DURATION OF CONTRACTS

Section  
1.2060 Duration of Contracts - General  
EMERGENCY

## SUBPART K: CONTRACT MATTERS

Section  
1.2560 Prevailing Wage  
EMERGENCY  
1.2570 Equal Employment Opportunity; Affirmative Action  
EMERGENCY

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

## SUBPART L: CONTRACT PRICING

## Section

1.2800 All Costs Included  
EMERGENCY

## SUBPART M: CONSTRUCTION AND CONSTRUCTION RELATED PROFESSIONAL SERVICES

## Section

1.3005 Construction and Construction Related Professional Services  
EMERGENCY

## SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

## Section

1.4005 Real Property Leases and Capital Improvement Leases  
EMERGENCY

## SUBPART O: PREFERENCES

## Section

1.4505 Procurement Preferences  
EMERGENCY

1.4510 Resident Bidder Preference  
EMERGENCY

1.4530 Correctional Industries  
EMERGENCY

1.4535 Sheltered Workshops for the Disabled  
EMERGENCY

1.4540 Gas Mileage  
EMERGENCY

1.4545 Small Business  
EMERGENCY

1.4570 Contracting with Businesses Owned and Controlled by Minorities,  
EMERGENCY Females and Persons with Disabilities

## SUBPART P: ETHICS

## Section

1.5013 Conflicts of Interest  
EMERGENCY

1.5015 Negotiations for Future Employment  
EMERGENCY

1.5020 Exemptions  
EMERGENCY

1.5030 Revolving Door  
EMERGENCY

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

1.5035 Disclosure of Financial Interests and Potential Conflicts of  
EMERGENCY Interest

## SUBPART Q: CONCESSIONS

## Section

1.5310 Concessions  
EMERGENCY

## SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

## Section

1.5510 Complaints Against Vendors  
EMERGENCY

1.5520 Suspension  
EMERGENCY

1.5530 Resolution of Contract Controversies  
EMERGENCY

1.5540 Violation of Law or Rule  
EMERGENCY

1.5550 Protests  
EMERGENCY

## SUBPART S: SUPPLY MANAGEMENT AND DISPOSITIONS

## Section

1.6010 Supply Management and Dispositions  
EMERGENCY

## SUBPART T: GOVERNMENTAL JOINT PURCHASING

## Section

1.6500 General  
EMERGENCY

1.6510 No Agency Relationship  
EMERGENCY

1.6520 Obligations of Participating Governmental Units  
EMERGENCY

1.6530 Centralized Contracts - Estimated Quantities  
EMERGENCY

1.6535 Centralized Contracts - Definite Quantities  
EMERGENCY

## SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

## Section

1.7000 Severability  
EMERGENCY

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

1.7010 Government Furnished Property  
EMERGENCY

1.7015 Inspections  
EMERGENCY

1.7020 Records and Audits  
EMERGENCY

1.7025 Written Determinations  
EMERGENCY

1.7030 No Waiver of Sovereign Immunity  
EMERGENCY

**AUTHORITY:** The Illinois Procurement Code [30 ILCS 500] (see P.A. 90-572).

**SOURCE:** Adopted at 7 Ill. Reg. 100, effective December 17, 1982; amended at 7 Ill. Reg. 13481, effective October 4, 1983; amended at 7 Ill. Reg. 13844, effective October 12, 1983; codified at 8 Ill. Reg. 14941; Sections 1.2210, 1.2220, 1.2230, 1.2240 recodified to Section 1.2210 at 9 Ill. Reg. 6118; amended at 10 Ill. Reg. 923, effective January 2, 1986; amended at 10 Ill. Reg. 18707, effective October 22, 1986; amended at 11 Ill. Reg. 7225, effective April 6, 1987; amended at 11 Ill. Reg. 7595, effective April 14, 1987; amended at 13 Ill. Reg. 17804, effective November 7, 1989; emergency amendment at 16 Ill. Reg. 13118, effective August 7, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 600, effective January 5, 1993; amended at 17 Ill. Reg. 14576, effective August 27, 1993; amended at 20 Ill. Reg. 9015, effective August 1, 1996; old Part repealed by emergency rulemaking at 22 Ill. Reg. 12632, and new Part adopted by emergency rulemaking at 22 Ill. Reg. 12726, effective July 1, 1998, for a maximum of 150 days.

## SUBPART A: GENERAL

Section 1.01 Title  
EMERGENCY

This Part may be cited as the Standard Procurement Rules.

Section 1.05 Policy  
EMERGENCY

All State procurements shall be accomplished in the most economical, expeditious and commercially reasonable manner that is in accordance with statute, this Part and other applicable rules.

Section 1.08 Purpose and Implementation of This Part  
EMERGENCY

- a) This Part establishes rules necessary and appropriate to implement the authorities granted by the Illinois Procurement Code (Code) [30 ILCS 500] relating to the procurement, management, and control of supplies,

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

services, real estate leases and related capital improvement, concessions and, as applicable, construction, and necessary rulemaking under the authority of the Code.

- b) This Part applies to all procurements and procurement rulemaking under the jurisdiction of the Chief Procurement Officer (CPO) and any State Purchasing Officer (SPO) appointed by the CPO. For the purposes of this Part, any reference to CPO means the Director of the Department of Central Management Services unless the context indicates otherwise.
- c) This Part is intended to make policies, procedures and guidelines for procurement of necessary supplies and services by State agencies uniform and consistent among and within State agencies in order to facilitate participation in State procurements, encourage competition, and ensure that procurements are conducted in a fair and open manner. Implementation by and within State agencies shall be consistent with this Part. Operational interpretations are to be made in a flexible manner designed to secure the State's needs and protect the State's interests.

Section 1.10 Application  
EMERGENCY

- a) The Code and this Part apply to those procurements for which the vendors were first solicited on or after July 1, 1998.
- b) Procurements for which vendors were first solicited on or before June 30, 1998, shall be conducted pursuant to legal requirements in effect at the time of the solicitation. The terms and conditions and the rights and obligations under contracts resulting from such procurements shall not be impaired.
- c) A solicitation occurs on or before June 30, 1998, as follows:

- 1) When advertising was required in the Official State Newspaper, the first advertising must run no later than June 30, 1998.
- 2) When advertising was not required:

- A) if the procurement was advertised, even though advertising was not required, the first advertisement must have run no later than June 30, 1998;
- B) if the procurement was by direct solicitation by mail, the solicitation must have been postmarked or placed in the control of a private carrier no later than June 30, 1998;
- C) if the procurement was by direct solicitation by fax, the fax must show a transmission date no later than June 30, 1998;
- D) if the procurement was solicited in-person or by telephone, the solicitation must have occurred no later than June 30, 1998, and the State officer or employee who made the solicitation must state in writing when the procurement was discussed and must name the party with whom the discussion took place.

- 3) In all circumstances, the solicitations must be for the



## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

procurement of particular needs. A general discussion to determine if there is any interest on the part of a State agency in the supplies or services of a vendor or vendors, or on the part of a vendor or vendors in providing the supplies or services, is not considered a solicitation.

d) The Code and this Part do not apply to:

- 1) contracts between the State and its political subdivisions or other governments, or between State governmental bodies except as specifically provided in this Code (for purposes of this subsection (d)(1), "governmental bodies" includes the State universities and their governing boards, community colleges and their governing boards and school districts);
- 2) grants;
- 3) purchase of care;
- 4) hiring of an individual as employee and not as an independent contractor, whether pursuant to an employment code or policy or by contract directly with that individual;
- 5) collective bargaining contracts;
- 6) purchase of real estate; or
- 7) contracts necessary to prepare for anticipated litigation, enforcement actions, or investigations, provided that the chief legal counsel to the Governor shall give his or her prior approval when the procuring agency is one subject to the jurisdiction of the Governor, and provided that the chief legal counsel of any other procuring entity subject to this Code shall give his or her prior approval when the procuring entity is not one subject to the jurisdiction of the Governor. [30 ILCS 500/1-10] Anticipated litigation is that which a State agency may prosecute or defend before a court or administrative body and actions necessary to prepare for and conduct the effective legal prosecution or defense of litigation, including, but not limited to, contracting for expert witnesses.

#### Section 1.15 Definition of Terms Used in This Part EMERGENCY

As used throughout this Part, terms defined in the Illinois Procurement Code shall have the same meaning as in the Code and as further defined below, and each term listed in this Section shall have the meaning set forth below unless its use clearly requires a different meaning. Terms may be defined in particular Sections for use in that Section.

"Bid" - The response to an Invitation for Bids.

"Bidder" - Any person who submits a bid.

"Brand Name or Equal Specification" - A specification that uses one or more manufacturer's names or catalogue numbers to describe the

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

standard of quality, performance, and other characteristics needed to meet State requirements, and that allows the submission of equivalent products.

"Brand Name Specification" - A specification limited to one or more items by manufacturers' names or catalogue numbers.

"Code" - The Illinois Procurement Code [30 ILCS 500].

"Concession" - The right or a lease to engage in a certain activity for profit on the lessor's premises (e.g., a refreshment or parking concession).

"Contract" - A contract may be in written or oral form. The term contract as used in the Code and this Part does not include: supplies or services the terms governing which are established by tariff of the Illinois Commerce Commission or the Federal Communications Commission, bonds or contracts relating to bonds issued by or on behalf of a State agency when the contractor or vendor is neither selected nor paid by the State agency.

"Contractor" or "Vendor" - The terms contractor and vendor are used interchangeably for purposes of the Code and this Part.

"Day" - Calendar day. In computing any period of time, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a State holiday, in which event the period shall run to the end of the next business day.

"Items" - Anything that may be procured under this Code.

"Invitation for Bids" or "IFB" - The process by which a purchasing agency requests information from bidders, including all documents, whether attached or incorporated by reference, used for soliciting bids. [30 ILCS 500/1-15.45]

"Procurement Officer" - The Chief Procurement Officer (CPO) or appropriate State Purchasing Officer (SPO) who conducts the particular procurement, or a designee of either.

"Proposal" - The response to a Request for Proposals.

"Purchase of Care" - A contract with a person for the furnishing of medical, educational, psychiatric, vocational, rehabilitation, social, or human services directly to a recipient of a State aid program. [30 ILCS 500/1-15.68] Purchase of care includes services provided or arranged to be provided by the vendor in conjunction with the purchase

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

of care. Such services may include administrative and management services, enrollment, health education, grievance procedures, case management, utilization review, quality assurance, peer review, or marketing. Recipient of a State aid program includes applicants for a State aid program.

"Qualified Products List" - An approved list of supplies described by model or catalog numbers that, prior to competitive solicitation, the State has determined will meet the applicable specification requirements.

"Request for Proposals" or "RFP" - The process by which a purchasing agency requests information from offerors, including all documents, whether attached or incorporated by reference, used for soliciting proposals. [30 ILCS 500/1-15.75]

"Requesting Agency" - The agency that requests that the CPO conduct a procurement for its use. All procurements reserved to the CPO that have not been delegated must be initiated by a purchase request.

"Responsive Bidder" - A person who has submitted a bid that conforms in all material respects to the invitation for bids. [30 ILCS 500/1-85]

"Responsible Offeror" - A person who has submitted an offer that conforms in all material respects to the Request for Proposals.

"Service" - The furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports or supplies that are incidental to the required performance. [30 ILCS 500/1-15.90]

"Specification" - Any description of the physical, functional, or performance characteristics, or of the nature of a supply or service. A specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply or service item for delivery. Unless the context requires otherwise, the terms "specification" and "purchase description" are used interchangeably throughout this Part.

"Specification for a Common or General Use Item" - A specification that has been developed and approved for repeated use in procurements.

"State agency" - Includes all boards, commissions, agencies, institutions, authorities, and bodies politic and corporate of the State, created by or in accordance with the constitution or statute, of the executive branch of State government and does include colleges, universities, and institutions under the jurisdiction of the governing boards of the University of Illinois, Southern Illinois University,

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

Illinois State University, Eastern Illinois University, Northern Illinois University, Western Illinois University, Chicago State University, Governors State University, Northeastern Illinois University, and the Board of Higher Education. However, this term does not apply to public employee retirement systems or investment boards that are subject to fiduciary duties imposed by the Illinois Pension Code or to the University of Illinois Foundation. "State agency" does not include units of local government, school districts, community colleges under the Public Community College Act, and the Illinois Comprehensive Health Insurance Board. [30 ILCS 500/1-15.100]

"Supplies" - All personal property, including but not limited to equipment, materials, printing, and insurance, and the financing of those supplies. [30 ILCS 500/1-15.110]

"Unsolicited Offer" - Any offer other than one submitted in response to a solicitation.

Section 1.25 Property Rights  
EMERGENCY

Receipt of an Invitation for Bids or other procurement document, or submission of any response thereto, or other offer, confers no right to receive an award or contract, nor does it obligate the State in any manner.

Section 1.30 Constitutional Officers, and Legislative and Judicial Branches  
EMERGENCY

Upon request by a constitutional officer or by a representative of the legislative or judicial branches, the CPO may, subject to staff availability and time constraints, conduct procurements on behalf of those constitutional officers or branches. These procurements will be conducted in accordance with the Code and this Part unless the requesting entity delegates its authority, in which case the requirements applicable to such entity may be followed.

## SUBPART B: PROCUREMENT RULES

Section 1.525 Rules  
EMERGENCY

- a) Procurement under the jurisdiction of the CPO or an appointed SPO shall be conducted in accordance with the Code and this Part except as provided in this Section.
- b) Agencies with rules regarding procurement on file with the Secretary of State as of the effective date of this Part shall, within 30 days after the effective date of this Part, submit those rules to the CPO for review and approval. If the CPO does not approve those rules, the agency shall begin rulemaking to repeal or modify them in accordance

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

with the Standard Procurement Rules and the Code within 30 days after the CPO's decision.

- c) An agency that has procurement needs not adequately addressed by the Standard Procurement Rules may inform the CPO and provide a draft of proposed rules to address those procurement needs, including a statement explaining why particular program needs of the agency require a rule different from or in addition to the Standard Procurement Rules. In lieu of approving rules proposed by the agency, the CPO may elect to meet the agency's need by amending these Standard Procurement Rules.
- d) All procurement rules proposed by an agency governed by the Code must be approved by the CPO prior to submission for publication as a proposed rule and again prior to adoption after all comments have been addressed.
- e) An agency with procurement rules approved by the CPO shall review those rules in conjunction with the Illinois Procurement Code and shall report to the CPO if changes are needed in their rules. The CPO shall inform each agency with procurement rules approved by the CPO of changes proposed to these Standard Procurement Rules that will require changes to their rules. In each such case, the CPO or SPO shall commence appropriate rulemaking.
- f) All proposed rules will be submitted to the Procurement Policy Board (Board) before or during the public comment period established under the Administrative Procedure Act. Rulemaking, except for emergency rulemaking, shall be scheduled so as to allow the Board at least 30 days to provide comments.
- g) Emergency rules will be submitted to the Board for review and comment with as much notice as is reasonably possible. A copy of the adopted emergency rules shall be provided to the Board. The Board shall be given opportunity to comment on rules proposed to replace the emergency rules.

## SUBPART C: PROCUREMENT AUTHORITY

## Section 1.1005 Exercise of Procurement Authority

## EMERGENCY

- a) The SPOs appointed by the CPO shall conduct all procurements under the jurisdiction of the CPO subject to the limitations set by the CPO. Those limitations are provided or authorized by this part.
- b) Procurements contemplating any form of agreement including, but not limited to, outright purchase, installment and lease purchase, lease, rental and license, are included.

## Section 1.1010 Appointment of State Purchasing Officer

## EMERGENCY

- a) The executive head of each State agency shall, after consultation with

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

the CPO, recommend to the CPO one of the agency's officers or employees for appointment as SPO. Upon appointment by the CPO of the recommended individual and approval by the executive head of the State agency, the named individual shall be an SPO for that agency.

- b) In the absence of a recommended, approved, and appointed SPO, the CPO may exercise all procurement authority on behalf of the agency. Should the executive head fail to recommend an acceptable SPO candidate, the CPO may appoint the executive head of the State agency as SPO.

## Section 1.1030 Associate Procurement Officers

## EMERGENCY

Any duly appointed Associate Procurement Officer shall conduct procurements in accordance with the Code, this Part and any restrictions imposed by the Governor in the appointment of the Associate Procurement Officer.

## Section 1.1040 Central Procurement Authority of the CPO

## EMERGENCY

- a) The CPO may establish master, scheduled or open-ended contracts for any supplies and services, and those contracts shall be utilized by State agencies in accordance with the terms of those contracts for the procurement of supplies and services covered by those contracts.
- b) The following items will be procured by the CPO as the central purchasing agency. These items may be procured by an SPO only as provided in this Subpart or in a letter of delegation from the CPO authorizing the procurement activity.

- 1) Supplies
  - A) all exceeding \$10,000; and
  - B) regardless of price:
    - i) Employee benefits authorized under the State Employees Group Insurance Act or the Personnel Code;
    - ii) Financing of any procurement;
    - iii) Paper, stationery, envelopes;
    - iv) Postage stamps;
    - v) Property, casualty, liability and other insurance, and bonds;
    - vi) All telecommunications material, equipment, software and related goods. (Equipment used to provide data communications internal to a building is considered to be Local Area Network equipment and is therefore excluded from this provision.);
    - vii) Utilities for buildings managed by the CPO;
    - viii) Vehicles.
- 2) Services
  - A) Electronic data processing services including, but not limited to, consulting and professional and artistic



## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

services, exceeding \$10,000;  
 B) Telecommunications related services including, but not limited to:

- i) voice, data, video, and internetworking services delivered from private and or public network services, dedicated and/or virtual networking, Wide Area Networking and/or Metropolitan Area Networking, local exchange services, long distance services, radio frequency derived communications services (e.g., cellular, PCS, land mobile, microwave, etc., services);
- ii) repairs, additions, relocations, or related changes to telecommunication services;
- iii) consulting, professional and artistic services relating to telecommunications issues regardless of price;

C) Vehicles related services, including but not limited to, fleet management and repairs, regardless of price.

## 3) Real Estate

Leases of real estate and any capital improvements to the leased real estate for the use of State agencies.

## c) Central Procurement Procedures

## 1) Purchase Requests

For purchases that are reserved to the CPO, each agency must initiate the procurement process through submission of a purchase request to the CPO. The CPO shall designate the format and requirements for submission.

## 2) Chief Procurement Officer's Authority to Reject

When the CPO, after consultation with the requesting agency, decides that processing the purchase request is clearly not in the best interest of the State, or that further review is needed, the CPO shall return such purchase request to the requesting agency. A statement of the reasons for its return shall accompany the returned request. Examples of reasons a purchase request may be returned include, but are not limited to:

- A) the request can be satisfied from existing State inventory or State contracts;
- B) the request exceeds agency needs;
- C) the needs requested could be procured more economically at a different time without detriment to the State; or
- D) the quality requested is inconsistent with State standards and usage.

## 3) Determination of Contractual Terms and Conditions

The CPO has authority to determine the terms and conditions of solicitations and contracts. The CPO will consult with the requesting agency if the agency requests special terms and conditions.

d) The CPO may, after consultation with and notice to any affected SPO,

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

use central procurement procedures for items in addition to those listed in this Section upon its determination that such procedures are likely to result in significant efficiencies or economies.

- e) The CPO and the CPOs of the construction agencies will determine whether a supply item or group of supply items shall be included as a part of, or procured separately from, any contract for construction.
- f) The CPO, as Director of the Department of Central Management Services, has additional duties and responsibilities established in statute apart from the Code, and nothing in this Part shall be interpreted to limit those other statutory duties and responsibilities.

## Section 1.1050 Procurement Authority of the SPO; Limitations

## EMERGENCY

## a) SPO's Authority

The SPOs appointed by the CPO shall have authority to make all procurements for the use of the SPO's agency that are not under the central procurement authority of the CPO, another CPO, or a construction agency. Such procurements shall be conducted in accordance with applicable statute, this Part and any limitations set by the CPO.

## b) Emergency Procurements

1) Agencies shall report telecommunications emergencies to the Department of Central Management Services' Network Control Center. Emergency procurements shall be made or authorized by the Department of Central Management Services. If the Network Control Center number cannot be reached, the Agency shall take reasonable temporary measures to meet its telecommunications needs.

2) For all other emergency procurements, whenever practicable, SPOs shall contact the CPO for instructions for meeting needs in emergency situations for each procurement under the central procurement authority of the CPO. SPOs shall utilize existing contracts established by the CPO whenever practicable.

## c) Professional and Artistic Services

Each SPO shall have authority, subject to the supervision of the CPO, to procure those professional and artistic services that are not under the central procurement authority of the CPO. Supervision primarily consists of ensuring SPO compliance with the procurement procedures established by the Code and this Part for procuring these services, but also includes without limitation the authority to review and require modifications to specifications; schedule for opening proposals; evaluation criteria; and awards when deemed necessary to protect the State's interests and ensure compliance with the Code and this Part.

## d) Correctional Industries

Each SPO shall have authority to procure supplies and services from the Department of Correction's Correctional Industries program.

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

- e) CPO Contracts  
SPOs do not have the authority to procure supplies or services for which the CPO establishes master, scheduled or open-ended contracts, except as permitted in the terms of those contracts.
- f) Department of Central Management Services  
SPOs do not have authority to procure supplies or services available from any of the program operations of the Department of Central Management Services. This includes, but is not limited to:
  - 1) Paper and Printing Warehouse;
  - 2) Division of Vehicles system; and
  - 3) Central Computing Facility.
- g) Review by CPO  
Any procurement related activity of an SPO may be reviewed by the CPO, and the SPO shall supply information requested by the CPO. Should the CPO determine that the SPO's activities were not in accordance with the requirements of the Code, this part or good procurement practices, or is otherwise not in the State's best interest, the CPO may consult with the SPO or executive head of the agency and, if necessary, may place additional limits on the SPO's authority. These additional limitations will be communicated in the form of written notice sent by the CPO to the SPO and the executive head of the agency.

## Section 1.1060 Delegation

**EMERGENCY**

- a) The CPO may delegate to any SPO the CPO's authority to conduct specific procurements or classes of procurements for the use of that agency. The CPO may also delegate to any SPO the CPO's authority to conduct on behalf of the CPO specific procurements or classes of procurements for multiple agency use. An SPO may request that the CPO delegate authority to that SPO.
- b) The CPO and each SPO (with approval of the SPO's executive head) may appoint designees to assist in the performance of their respective duties and responsibilities.
- c) Any exercise of delegated authority shall be in accordance with the Code and this Part.
- d) Delegations shall be in writing and shall specify:
  - 1) the activity or function authorized;
  - 2) any limits or restrictions on the exercise of the delegated authority;
  - 3) whether the authority may be further delegated;
  - 4) the duration of the delegation; and
  - 5) any reporting requirements.

## Section 1.1070 Toll Highway Authority

**EMERGENCY**

The CPO delegates to the Illinois Toll Highway Authority and its SPO authority

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

to procure construction and construction-related services for the construction and operation of the toll highways under the jurisdiction of the Illinois Toll Highway Authority. For those activities, the SPO shall follow the construction rules promulgated by the Illinois Department of Transportation and the Capital Development Board, as applicable. Rules issued by the SPO shall be consistent with rules promulgated by the CPO designated under the Code for construction agencies. The CPO may delegate to the CPO of the Department of Transportation authority to publish in its volume of the Bulletin all notices that must be published relating to the procurement of construction and construction-related services by the Illinois Toll Highway Authority.

## Section 1.1080 Illinois Mathematics and Science Academy

**EMERGENCY**

The CPO delegates to the Illinois Mathematics and Science Academy and its SPO authority to procure supplies and services for the operation of the Academy. The Academy may utilize contracts let by the CPO for higher education in lieu of master and other such contracts established by CMS. For the procurement of such supplies and services, the SPO shall follow the procurement rules adopted by the CPO for higher education. The CPO may delegate to the CPO for higher education authority to publish in its volume of the Bulletin all notices that must be published relating to the procurement of supplies and services by the Illinois Mathematics and Science Academy.

## Section 1.1075 Department of Natural Resources

**EMERGENCY**

The CPO delegates to the Department of Natural Resources and its SPO authority to procure construction and construction-related services for the construction activities under the jurisdiction of the Department of Natural Resources. For those activities, the SPO shall follow the construction rules promulgated by the Illinois Department of Transportation and the Capital Development Board, as applicable. Rules issued by the SPO shall be consistent with rules promulgated by the CPO designated under the Code for construction agencies. The CPO may delegate to the CPO of the Department of Transportation authority to publish in its volume of the Bulletin all notices that must be published relating to the procurement of construction and construction-related services by the Department of Natural Resources.

## SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

## Section 1.1510 Illinois Procurement Bulletin

**EMERGENCY**

- a) The Illinois Procurement Bulletin consists of several volumes, one for each of the Chief Procurement Officers designated in the Code, one for any appointed Associate Procurement Officer, and one for each other State entity that must publish notices under the Code. Each volume

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

- will contain procurement information relating to procurements under the jurisdiction of the applicable Chief or Associate Procurement Officer (APO). Each volume shall be available in electronic form.
- b) The Bulletin may be accessed via instructions available from the CPO.
  - c) Access to the detailed information contained in the Bulletin may be subject to an annual subscription fee as set by the CPO, not to exceed publication and distribution costs.
  - d) To accommodate those who are not interested in subscribing to the Bulletin, a free subscription will be made available to interested public libraries in Illinois.

**Section 1.1525 Bulletin Content****EMERGENCY**

- a) The information in each volume of the Bulletin will be updated at least once per month and may be updated as frequently as daily. The format, lead-time and other administrative requirements for submitting notices to the Bulletin will be provided in writing by the CPO to each SPO.
- b) Notice of each procurement request governed by the Code that must be conducted by competitive sealed bidding, including multi-step sealed bidding, competitive sealed proposals, or competitive selection procedures, shall be placed in the Bulletin. The notice shall contain at least the following information:
  - 1) the name of the procuring agency (and using agency, if different);
  - 2) a brief purchase description;
  - 3) a procurement reference number, if used;
  - 4) the date the procurement is first offered (procurements that require notice shall not be distributed to vendors prior to the date the notice is first published in the Bulletin);
  - 5) the date, time, and location for making submissions;
  - 6) the method of source selection;
  - 7) the name of the Procurement Officer in charge; and
  - 8) instructions on how to obtain detailed information.
- c) Notice of each contract awarded that was subject of a notice in subsection (b) above shall be placed in the Bulletin. This notice shall contain at least the following information:
  - 1) the information published in subsection (b) above;
  - 2) the name of the vendor selected for award;
  - 3) the contract price;
  - 4) the number of unsuccessful vendors; and
  - 5) other disclosures required to be published in the Bulletin.
- d) The following information regarding emergency procurements shall be published in the Bulletin within 14 days after date of performance under the emergency contract:
  - 1) name of the procuring agency (and using agency, if different);
  - 2) name of the vendor selected for award;

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

- 3) brief description of what the vendor will do or provide;
  - 4) total price (if only an estimate is known, it shall be published, but a subsequent notice repeating all required information shall be published when the final amount is known);
  - 5) reasons for using the emergency method of source selection; and
  - 6) name of the Procurement Officer in charge.
- e) The following information in regard to sole source procurements shall be published in the Bulletin at least 14 days prior to entering into the contract with the designated sole source vendor:
- 1) name of the procuring agency (or using agency, if different);
  - 2) name of the vendor;
  - 3) brief description of what the vendor will do or provide; and
  - 4) name of the Procurement Officer in charge.

**Section 1.1550 Official State Newspaper****EMERGENCY**

- a) The Department of Central Management Services will select, by Competitive Sealed Bid, a secular newspaper of general circulation printed in English, to be known as the Official State Newspaper. The term of the appointment and the requirements will be specified by the Department in the Invitation for Bids.
- b) Upon direction of the CPO, this newspaper may be used as a substitute for the Bulletin in the event the Bulletin cannot be published.

**Section 1.1560 Supplemental Notice****EMERGENCY**

Publication in the Bulletin may be supplemented by publication elsewhere at the discretion of the purchasing agency. Examples include publication in:

- a) the Official State Newspaper;
- b) a newspaper of general circulation;
- c) a newspaper of local circulation in the area pertinent to the procurement;
- d) industry media; or
- e) agency "WEB" pages.

**Section 1.1570 Error in Notice****EMERGENCY**

When a required publication contains an error, the error may be corrected by a single notice published in the Bulletin.

**Section 1.1580 Direct Solicitation****EMERGENCY**

In addition to giving notice in the Bulletin, agencies may directly contact prospective vendors by providing copies of Invitations for Bids, Requests for



## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

Proposals, or other procurement information. Direct solicitation may be oral or in writing, but care should be taken to ensure that all vendors solicited in this manner receive the same information as provided to others.

### Section 1.1590 Retention of Bulletin Information EMERGENCY

- a) The information published pursuant to Section 1.1525(b) should be retained in electronic or paper form until the information required to be published under Section 1.1525(c) for that procurement is published.
- b) Other information published in the Bulletin shall be retained in electronic or paper form for a period of one year after first publication.

## SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

### Section 1.2005 General Provisions EMERGENCY

- a) Late Bids or Proposals, Late Withdrawals and Late Modifications
  - 1) Definition. Any bid or proposal received after the time and date for receipt, or at other than the specified location even if on time, is late. Any withdrawal or modification of a bid or proposal received after the time and date set for opening of bids or proposals is late. If received at other than the specified location, the submission is late.
  - 2) Treatment. No late bid or proposal, late modification, or late withdrawal will be considered unless the Procurement Officer, and not a designee, determines it would have been timely but for the action or inaction of State personnel directly serving the procurement activity (e.g., providing the wrong address).
  - 3) Records. Records shall be made and, in accordance with the State Records Act [5 ILCS 160], kept for each late bid or proposal, late modification, or late withdrawal.
  - 4) Other Submissions. Any other submission that has a time or date deadline shall be treated in the same manner as a late bid.
- b) Extension of Time
  - 1) The Procurement Officer may, prior to the date or time for submitting or modifying a bid or proposal, extend the date or time for the convenience of the State.
  - 2) After opening bids or proposals, the Procurement Officer may request bidders or offerors to extend the time during which the State may accept the bids or proposals, provided that, with regard to bids, no other change is permitted.
- c) Electronic and Facsimile Submissions
  - 1) The Invitation for Bids or Request for Proposals may state that electronic and facsimile machine submissions will be considered

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

if they are received at the designated office by the time and date set for receipt. Any required attachments will be submitted as stated in the IFB or RFP.

- 2) Electronic submissions authorized by specific language in the IFB or RFP will be opened in accordance with electronic security measures in effect at the purchasing agency at the time of opening. Unless the electronic submission procedures provide for a secure receipt, vendor assumes risk of premature disclosure due to submission in unsealed form.
- 3) Fax submissions authorized by specific language in the IFB or RFP will be placed in a sealed container upon receipt and opened as other submissions. Vendor assumes risk of premature disclosure due to submission in unsealed form.
- d) Intent to Submit
 

The Invitation for Bids or the Request for Proposals may require that vendors submit, by a certain time and date, a notice of their intent to submit a bid or proposal in response to the IFB or RFP. Bids and proposals submitted without complying with the notice of intent requirement may be rejected.
- e) Only One Bid or Proposal Received
 

If only one bid or proposal is received, an award may be made to the single bidder or offeror if the Procurement Officer finds that the price submitted is fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond, or there is not adequate time for resolicitation. Otherwise:

  - 1) new bids or offers may be solicited, including under sole source (Section 1.2025) or emergency (Section 1.2030) procedures; or
  - 2) the procurement may be canceled.
- f) Alternate or Multiple Bids or Proposals
  - 1) Alternate bids or proposals may be accepted if:
    - A) permitted by the solicitation and in accordance with instructions in the solicitation; or
    - B) only one vendor responded, in which case the alternate submission may be evaluated and treated in accordance with Section 1.2025 (Sole Source Procurement) of this Part; or
    - C) the low bidder, who has met all requirements of the solicitation, has provided a lower cost alternative that meets all of the material requirements of the specifications.
  - 2) Multiple bids or proposals may be accepted if:
    - A) permitted by the solicitation and submitted in accordance with instructions in the solicitation; or
    - B) only one vendor responded, then, one or more of the submissions may be evaluated, provided that, in the case of bids, only the lowest cost bid meeting specifications may be considered.
  - 3) If a vendor clearly indicates a primary submission among alternate or multiple bids or proposals, then that primary

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

submission shall be considered for award as though it were the only bid or proposal submitted by the vendor.

- g) Multiple Items  
An Invitation for Bids or Request for Proposals may call for pricing of multiple items of similar or related type with award based on individual line item, group total of certain items, or grand total of all items.
- h) "All or None" Bids or Proposals  
All or none bids or proposals may be accepted if the evaluation shows an all or none award to be the lowest cost or best value of those submitted.
- i) Conditioning Bids or Proposals Upon Other Awards  
Any bid or proposal that is conditioned upon receiving award of the particular contract being solicited and one or more other State contracts shall:
  - 1) be rejected unless the vendor removes the condition; or
  - 2) be evaluated and award made to that vendor if the vendor is also independently evaluated as the winner of the other IFBs or RFPs provided the agency need not delay procurement actions to accommodate the vendor's all or none condition.
- j) Unsolicited Offers
  - 1) Processing of Unsolicited Offers. The Procurement Officer may consider unsolicited offers. If the SPO of an agency that receives an unsolicited offer is not authorized to enter into a contract for the supplies or services offered, the SPO of such agency may forward the offer to the CPO, who may consider such unsolicited offer.
  - 2) Conditions for Consideration. An unsolicited offer must be in writing and must be sufficiently detailed to allow a judgment to be made concerning the potential utility of the offer to the State.
  - 3) Award. An award may not be made based on an unsolicited offer in place of the notice and competition requirements of the Code and this Part except if that unsolicited offer meets the requirements for a small (Section 1.2020), sole source (Section 1.2025), or emergency (Section 1.2030) procurement.
- k) Clarification of Bids and Proposals  
The Procurement Officer may request that a vendor clarify its bid or proposal as a part of the evaluation process. A vendor shall not be allowed to materially change its bid or proposal in response to a request for clarification. A clarification is not an opportunity to make changes or for submission of best and finals as authorized elsewhere in this Part.
  - 1) Extension of Time on Indefinite Quantity Contracts  
The time of performance of an indefinite quantity contract may be extended upon agreement of the parties, provided the extension is for 90 days or less and the Procurement Officer determines in writing that it is not practical to award another contract at the time of such

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

extension.

- m) Increase in Quantity on Definite Quantity Contracts  
1) The quantity that may be ordered from a definite quantity contract without additional notice and competition may be increased by up to 20% provided the Procurement Officer determines that separate bidding for the additional quantity is not likely to achieve lower pricing. A particular procurement may specify a different percentage.
- 2) The quantity may be increased by any percentage provided the dollar value of the increase does not exceed the applicable small purchase (Section 1.2020) threshold.
- n) Subsequent Purchase Request  
If, within 30 days after making an award to a particular vendor pursuant to a competitive sealed bid on behalf of an agency, the CPO receives a purchase request from another agency for the same item and for the same or lesser quantity, the CPO may contract with that vendor on the same terms and conditions, including price, without additional notice and competition, if such contract is acceptable to the vendor.
- o) Assignment, Novation or Change of Name
  - 1) Assignment. No State contract is transferable, or otherwise assignable, without the written consent of the Procurement Officer, provided, however, that a vendor may assign money receivable under a contract after due notice to the State. Assignment may require the execution of a contract with the assignee and in such cases the assignee must meet all requirements for contracting with the State.
  - 2) Recognition of a Successor in Interest; Novation. When in the best interest of the State, a successor in interest may be recognized in a novation agreement in which the transferor and the transferee agree that:
    - A) the transferee assumes all of the transferor's obligations;
    - B) the transferee meets all requirements for contracting with the State;
    - C) the transferor waives all rights under the contract as against the State; and
    - D) unless the transferor guarantees performance of the contract by the transferee, the transferee shall, if required by the State, furnish a satisfactory performance bond.
  - 3) Change of Name. A vendor may submit a written request to change the name in which it holds a contract with the State. The name change shall not alter any of the terms and conditions of the contract or the obligations of the vendor.
  - 4) Reports. All change of name or novation agreements under this subsection (o) shall be reported to the CPO within 30 days after the date the agreement becomes effective so that the bid list may be updated.
- p) Contracting for Installment Purchase Payments, Including Interest  
Contracts may provide for installment purchase payments, including

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

interest charges, over a period of time. The interest rate may not exceed that established by law, including the Bond Authorization Act [30 ILCS 305].

- q) Use of Source Selection Method that is Not Required  
If a purchasing agency uses a method of source selection that it is not, by law, required to use (e.g., use of a competitive sealed bid for a small purchase), the purchasing agency is not bound to strict compliance with the Code and rules governing the method of source selection used.

- r) Vendor Signature  
A bid or proposal submitted unsigned will be evaluated if the vendor submits a written signature acceptable to the Procurement Officer within the time specified by that officer.

- s) Stringing  
Dividing or planning procurements to avoid use of competitive procedures (stringing) is prohibited.

- t) Confidential Data  
Vendors must clearly identify any information that is exempt from the disclosure requirement of the Illinois Freedom of Information Act [5 ILCS 140] and must request special handling of that material.

### Section 1.1010 Competitive Sealed Bidding EMERGENCY

- a) Application  
Competitive sealed bidding is the required method of source selection except as allowed by the Code and this Part. The provisions of this Section apply to every procurement required to be conducted by competitive sealed bidding.

- b) The Invitation for Bids

- 1) Use. The Invitation for Bids is used to initiate a competitive sealed bid procurement.

- 2) Content. The Invitation for Bids shall include, at a minimum, the following:

- A) instructions and information to bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the address of the office to which bids are to be delivered, and the maximum time for bid acceptance by the State;

- B) the purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description; and

- C) the contract terms and conditions, including warranty and bonding or other security requirements, as applicable.

- 3) Incorporation by Reference. The Invitation for Bids may incorporate documents by reference provided that the Invitation for Bids specifies where such documents can be obtained.

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

- c) Bidding Time

Bidding time is the period of time between the date of notice or distribution of the Invitation for Bids and the time and date set for receipt of bids. In each case, bidding time will be set to provide bidders a reasonable time to prepare their bids. A minimum of 14 days shall be provided unless a shorter time is authorized by the Code or this Part.

- d) Bidder Submissions

- 1) Bid Form. The Invitation for Bids may include a form or format for submitting bids. If a form or format is specified, vendor shall submit bids as instructed.

- 2) Bid Samples and Descriptive Literature

- A) Bid samples or descriptive literature may be required when it is necessary to evaluate required characteristics of the items bid.

- B) Unsolicited bid samples or descriptive literature are submitted at the bidder's risk, may not be examined or tested, will not be deemed to vary any of the provisions of the Invitation for Bids, and may not be utilized by the vendor to contest a decision or understanding with the State.

- e) Public Notice

- 1) Publication. Every procurement for supplies and services in excess of \$10,000 that must be procured using an Invitation for Bids shall be publicized in the Illinois Procurement Bulletin (see Section 1.1510).

- 2) Public Availability. A copy of the Invitation for Bids shall be made available for public inspection.

- 3) Distribution. Invitations for Bids or Notices of the Availability of Invitations for Bids may be mailed or otherwise furnished to a sufficient number of bidders for the purpose of securing competition. Notices of Availability shall, at a minimum, indicate where Invitations for Bids may be obtained; generally describe what is needed; and indicate the due date for bids. Where appropriate, the Procurement Officer may require payment of a fee or a deposit for supplying the Invitation for Bids.

- f) Pre-Bid Conference

A pre-bid conference may be conducted to enhance understanding of the procurement requirements. The pre-bid conference shall be announced as a part of the Invitation for Bids notice. The conference may be designated as "attendance mandatory" or "attendance optional". The conference should be held long enough after the Invitation for Bids has been issued to allow bidders to become familiar with it, but sufficiently before bid opening to allow consideration of the conference results in preparing their bids. Nothing stated at the pre-bid conference shall change the Invitation for Bids unless a change is made by written modification to the Invitation for Bids.



## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

Amendments shall be supplied to all those prospective bidders known to have received an Invitation for Bids. If the conference is mandatory, the amendment shall be supplied to attendees only.

- g) Amendments to Invitations for Bids
  - 1) Form. Amendments to Invitations for Bids shall be clearly identified and shall reference the portion of the IFB it amends.
  - 2) Distribution. Amendments shall be made available to all prospective bidders known to have received an Invitation for Bids.
  - 3) Timeliness. Amendments shall be made available within a reasonable time to allow prospective bidders to consider them in preparing their bids. If the time and date set for receipt of bids will not permit such preparation, the amendment shall extend the response time. If necessary, the response time may be extended by fax or telephone and confirmed in the amendment.
- h) Pre-Opening Modification or Withdrawal of Bids
  - 1) Procedure. Bids may be modified or withdrawn by written notice received in the office designated in the Invitation for Bids prior to the time and date set for bid opening.
  - 2) Disposition of Bid Security. If a bid is withdrawn in accordance with this Section, the bid security, if any, shall be returned to the bidder.
  - 3) Records. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.
- i) Receipt, Opening and Recording of Bids
  - 1) Receipt. Upon its receipt, each bid and modification shall be time-stamped but not opened and shall be stored in a secure place until the time and date set for bid opening. If a bid is opened in error, the file shall so state.
  - 2) Opening and Recording
    - A) Bids and modifications shall be opened publicly at the time, date, and place designated in the Invitation for Bids. Opening shall be witnessed by a State employee or any other person present, but the person opening bids shall not serve as witness. The name of each bidder, the bid price, and such other information as is deemed appropriate by the Procurement Officer, shall be recorded and the name of each bidder read aloud or otherwise made available. The name of the witness shall also be recorded at the opening.
    - B) The winning bid shall be available for public inspection after award, along with the record of each unsuccessful bid.
- j) Bid Evaluation and Award
  - 1) General. The contract is to be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids, except as permitted in the Code and this Part. The Invitation for Bids shall set forth the requirements and criteria that will be used

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

to determine the lowest responsive bidder. No bid shall be evaluated for any requirements or criteria that are not disclosed in the Invitation for Bids.

- 2) Responsibility. Responsibility of prospective vendors is covered by Section 1.2046 (Responsibility) of this Part.
- 3) Responsiveness. A bid must conform in all material respects to the Invitation for Bids.
  - A) Product or Service Acceptability. The Invitation for Bids shall set forth any evaluation criteria to be used in determining product or service acceptability. It may require the submission of bid samples, descriptive literature, technical data, references, licenses, or other information or material. It may also provide for accomplishing any of the following prior to award:
    - i) inspection or testing of a product or service prior to award for such characteristics as quality or workmanship;
    - ii) examination of such elements as appearance, finish, taste, or feel;
    - iii) other examinations to determine whether it conforms with any other purchase description requirements.
  - B) The acceptability evaluation is not conducted for the purpose of determining whether one bidder's product or service capability is superior to another, but only to determine that a bidder's offering is acceptable as set forth in the Invitation for Bids. Any bidder's offering that does not meet the acceptability requirements shall be rejected.
- 4) Determination of Lowest Bidder. Following determination of product or service acceptability as set forth in this subsection (j), bids will be evaluated to determine which bidder offers the lowest cost to the State in accordance with the evaluation criteria set forth in the Invitation for Bids. Only objectively measurable criteria that are set forth in the Invitation for Bids shall be applied in determining the lowest bidder. Examples of such criteria include, but are not limited to, transportation cost and ownership or life-cycle cost formulas. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible such evaluation factors shall be reasonable estimates based upon information the State has available concerning future use and shall provide for the equitable treatment of all bids. Pricing for optional supplies or services, or for renewal terms, may be considered, particularly when the pricing for such items or terms is unbalanced when compared to other pricing in the bid.
- 5) Price Negotiation. Negotiations are permitted with the low bidder to obtain a lower price for the item bid.
  - k) Documentation of Award

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

## NOTICE OF EMERGENCY RULES

Following award, a record showing the successful bidder shall be made a part of the procurement file.

## 1) Award to Other Than Low Bidder

1) The Procurement Officer, but not a designee, may award to other than the lowest responsible and responsive bidder upon a written determination that award to another bidder is in the State's best interest. The name of the bidder selected, pricing, and the reasons for selecting this bidder instead of the low bidder must be published in the Bulletin.

2) This action may be appropriate when the difference in quality or speed of delivery is so great as compared to the difference in price, and considering the needs of the agency, that a best value award is justified. However, if the difference in price is significant, the Procurement Officer may not utilize this provision.

## m) Publicizing Award

The successful bidder shall be notified of award and such notification may be in the form of a letter, purchase order or other clear communication. In procurements over the small purchase limit set in Section 1.2020 (Small Purchases) of this Part, notice of award shall be published in the Bulletin.

## Section 1.2012 Multi-Step Sealed Bidding

## EMERGENCY

a) Definition. Multi-step sealed bidding is a two-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated by the State, and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase have their price bids considered.

b) Conditions for Use. The multi-step sealed bidding method may be used when it is not practical to prepare initially a definitive purchase description that will be suitable to permit an award based on price. Multi-step sealed bidding may be used when it is considered desirable:

- 1) to invite and evaluate possible diverse technical offers to determine their acceptability to fulfill the purchase description requirements; and
  - 2) to conduct discussions for the purposes of facilitating understanding of the technical offer and purchase description requirements and, where appropriate, obtain supplemental information, permit amendments of technical offers, or amend the purchase description.
- c) Pre-Bid Conference in Multi-Step Sealed Bidding  
Prior to the submission or evaluation of unpriced technical offers, a pre-bid conference as contemplated by Section 1.2010(f) (Pre-Bid Conference) may be conducted by the Procurement Officer.
- d) Procedure for Phase One of Multi-Step Sealed Bidding

1) Form. Multi-step sealed bidding shall be initiated by the issuance of an Invitation for Bids in the form required by Section 1.2010 (Competitive Sealed Bidding), except as hereinafter provided. In addition to the requirements set forth in Section 1.2010, the multi-step Invitation for Bids shall state:

- A) that unpriced technical offers are requested;
- B) whether priced bids are to be submitted at the same time as unpriced technical offers; if they are, such priced bids shall be submitted in a separate sealed envelope;
- C) that it is a multi-step sealed bid procurement, and priced bids will be considered only in the second phase and only from those bidders whose unpriced technical offers are found acceptable in the first phase;
- D) the criteria to be used in the evaluation of the unpriced technical offers;
- E) that the Procurement Officer may conduct oral or written discussions of the unpriced technical offers;
- F) that the item being procured shall be furnished generally in accordance with the bidder's technical offer as found to be finally acceptable and shall meet the requirements of the Invitation for Bids.

2) Amendments to the Invitation for Bids. After receipt of unpriced technical offers, amendments to the Invitation for Bids shall be distributed only to bidders who submitted unpriced technical offers, and they shall be permitted to submit new unpriced technical offers or to amend those submitted. If, in the opinion of the Procurement Officer, a contemplated amendment will significantly change the nature of the procurement, the Invitation for Bids may be canceled in accordance with Section 1.2040 (Cancellation of Solicitation; Rejection of Bids or Proposals) of this Part and a new Invitation for Bids issued.

3) Receipt and Handling of Unpriced Technical Offers. Unpriced technical offers submitted by bidders shall be opened in the presence of at least one witness. Such offers shall not be disclosed to unauthorized persons.

4) Evaluation of Unpriced Technical Offers. The unpriced technical offers submitted by bidders shall be evaluated solely in accordance with the criteria set forth in the Invitation for Bids. The unpriced technical offers shall be categorized as:

- A) acceptable;
  - B) potentially acceptable, that is, reasonably susceptible of being made acceptable; or
  - C) unacceptable, in which case the Procurement Officer shall record in writing the basis for finding an offer unacceptable, notify the vendor and make it part of the procurement file.
- 5) The Procurement Officer may initiate phase two of the procedure



## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

if, in the Procurement Officer's opinion, there are sufficient acceptable unpriced technical offers to assure effective price competition in the second phase without technical discussions. If the Procurement Officer finds discussion of the technical offers is necessary, the Procurement Officer shall commence discussions of the unpriced technical proposals.

6) Discussion of Unpriced Technical Offers. The Procurement Officer may conduct discussions with any vendor who submits an acceptable or potentially acceptable technical offer. During the course of such discussions, the Procurement Officer shall not disclose any information derived from one unpriced technical offer to any other bidder. Any such bidder may submit supplemental information amending its technical offer at any time until the closing date established by the Procurement Officer. Such submission may be made at the request of the Procurement Officer or upon the bidder's own initiative.

7) Unacceptable Unpriced Technical Offer. When the Procurement Officer determines a bidder's unpriced technical offer to be unacceptable, such offeror shall not be afforded an additional opportunity to supplement its technical offer.

## e) Procedure for Phase Two

1) Initiation. Upon the completion of phase one, the Procurement Officer shall either:

- A) open priced bids submitted in phase one (if priced bids were required to be submitted) from bidders whose unpriced technical offers were found to be acceptable; or
- B) if priced bids have not been submitted, invite each acceptable bidder to submit a priced bid.

2) Conduct. Phase two shall be conducted as any other competitive sealed bid procurement except:

- A) no public notice need be given of this invitation to submit priced bids because such notice was previously given;
- B) after award, the unpriced technical offer of the successful bidder shall be disclosed as follows: The Procurement Officer shall examine written requests of confidentiality for trade secrets and proprietary data in the technical offer of such bidder to determine the validity of any such requests. If the parties do not agree as to the disclosure of data, the Procurement Officer shall reject the offer. Such technical offer shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data; and
- C) unpriced technical offers of bidders who are not awarded the contract shall not be open to public inspection.

Section 1.2015 Competitive Sealed Proposals  
EMERGENCY

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

a) Competitive Sealed Proposals may be used whenever permitted by the Code and as described in this part.

b) The Competitive Sealed Proposal method of source selection may be used to procure the following categories:

- 1) electronic data processing equipment, software, and services;
- 2) telecommunications equipment, software, and services;
- 3) consulting services; and
- 4) employee benefits and management of those benefits.

c) Competitive Sealed Proposals may be used on a case-by-case basis when it is determined by the Procurement Officer that competitive sealed bidding is either not practicable or advantageous.

1) "Practicable" Distinguished from "Advantageous." As used in Section 20-15 (Competitive Sealed Proposals) of the Illinois Procurement Code and in this Section, "practicable" denotes what may be accomplished or put into practical application, and "advantageous" connotes a judgmental assessment of what is in the State's best interest. Competitive sealed bidding may be practicable, that is, reasonably possible, but not necessarily advantageous, that is, in the State's best interest. Before a procurement may be conducted by competitive sealed proposals, the Procurement Officer shall determine in writing that competitive sealed bidding is either not practicable or not advantageous to the State.

## 2) General Discussion

- A) If competitive sealed bidding is not practicable or is not advantageous, competitive sealed proposals should be used.
- B) The key element in determining whether use of a proposal is advantageous is the need for flexibility. The competitive sealed proposal method differs from competitive sealed bidding in two important ways:

- i) it permits discussions with competing offerors and changes in their proposals, including price; and
- ii) it allows comparative judgmental evaluations to be made when selecting among acceptable proposals for award of the contract.

C) Where evaluation factors involve the relative abilities of offerors to perform, including degrees of experience or expertise, where the types of supplies or services may require the use of comparative, judgmental evaluations to evaluate them adequately, or where the type of need to be satisfied involves weighing aesthetic values to the extent that price is a secondary consideration, use of competitive sealed proposals is the appropriate procurement method.

3) When Competitive Sealed Bidding Is Not Practicable. Competitive sealed bidding is not practicable unless the nature of the procurement permits award to a low bidder who agrees by its bid to perform without condition or reservation in accordance with the purchase description, delivery or performance schedule, and



## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

all other terms and conditions of the Invitation for Bids. Factors to be considered in determining whether competitive sealed bidding is not practicable include:

- A) whether the contract needs to be other than a fixed-price type;
  - B) whether oral or written discussions may need to be conducted with offerors concerning technical and price aspects of their proposals;
  - C) whether offerors may need to be afforded the opportunity to revise their proposals, including price;
  - D) whether award may need to be based upon a comparative evaluation, as stated in the Request for Proposals, of differing price, quality, and contractual factors in order to determine the most advantageous offering to the State. Quality factors include technical and performance capability and the content of the technical proposal; and
  - E) whether the primary consideration in determining award may not be price.
- 4) When Competitive Sealed Bidding Is Not Advantageous. A determination may be made to use competitive sealed proposals if it is determined that it is not advantageous to the State, even though practicable, to use competitive sealed bidding. Factors to be considered in determining whether competitive sealed bidding is not advantageous include:
    - A) if prior procurements indicate that competitive sealed proposals may result in more beneficial contracts for the State; and
    - B) whether the factors listed in subsection (c)(3) of this Section are desirable, in conducting a procurement, rather than necessary; if they are, then such factors may be used to support a determination that competitive sealed bidding is not advantageous.

## d) Content of the Request for Proposals

The Request for Proposals shall be prepared in accordance with Section 1.2010 (Competitive Sealed Bidding), provided that it shall also include:

- 1) a statement that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award, but that proposals may be accepted without such discussions; and
  - 2) a statement of when and how price should be submitted.
- e) Receipt and Registration of Proposals
- 1) Proposals and modifications shall be opened publicly at the time, date and place designated in the Request for Proposals. Opening shall be witnessed by a State employee or by any other person present, but the person opening proposals shall not serve as witness. A record shall be prepared which shall include the name of each offeror, the number of modifications received, if any,

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

and a description sufficient to identify the supply or service item offered. The record of proposals shall be open to public inspection after award of the contract.

- 2) Proposals and modifications shall be opened in a manner to avoid disclosing contents to competitors. Only State personnel and contractual agents may review the proposals prior to award.
- f) Evaluation of Proposals
- 1) Evaluation Factors in the Request for Proposals. The Request for Proposals shall state all of the evaluation factors, including price, and their relative importance.
  - 2) Evaluation. The evaluation shall be based on the evaluation factors set forth in the Request for Proposals. Factors not specified in the Request for Proposals shall not be considered. Numerical rating systems may be used but are not required.
  - 3) Classifying Proposals. For the purpose of conducting discussions, proposals may be initially classified as:
    - A) acceptable;
    - B) potentially acceptable, that is, reasonably susceptible of being made acceptable; or
    - C) unacceptable. Offerors whose proposals are unacceptable shall be so notified promptly.
- g) Proposal Discussions with Individual Offerors
- 1) "Offerors" Defined. For the purposes of Section 20-15(f) (Competitive Sealed Proposals, Discussion with Responsible Offerors and Revisions to Proposals) of the Illinois Procurement Code and of this Section, the term "offerors" includes only those businesses submitting proposals that are acceptable or potentially acceptable. The term shall not include businesses that submitted unacceptable proposals.
  - 2) Purposes of Discussions. Discussions are held to:
    - A) promote understanding of the State's requirements and the offerors' proposals; and
    - B) facilitate arriving at a contract that will be most advantageous to the State, taking into consideration price and the other evaluation factors set forth in the Request for Proposals.
  - 3) Conduct of Discussions. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of proposals. If during discussions there is a need for any substantial clarification of, or change to, the Request for Proposals, the Request shall be amended to incorporate such clarification or change. Auction techniques (revealing one offeror's price to another) and disclosure of any information from competing proposals are prohibited. Any substantial oral clarification of a proposal shall be reduced to writing by the offeror.
  - 4) Best and Final Offers. The Procurement Officer may request best and final offers from those offerors deemed acceptable after

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

completion of any discussions. Best and final offers shall be submitted by a specified date and time. The Procurement Officer may conduct additional discussions or change the State's requirements and require another submission of best and final offers. The scope of the best and final and the number of vendors allowed to participate shall be defined by the Procurement Officer. If an offeror does not submit either a notice of withdrawal or another best and final offer, that offeror's immediately previous offer will be construed as its best and final offer.

## h) Award

An award shall be made by the Procurement Officer pursuant to a written determination showing the basis on which the award was found to be most advantageous to the State, based on the factors set forth in the Request for Proposals.

## i) Publicizing Awards

The successful offeror shall be notified of award and such notification may be in the form of a letter, purchase order or other clear communication. When the award exceeds the small purchase limit set in Section 1.2020 of this Part, notice of award shall be published in the Bulletin.

## Section 1.2020 Small Purchases

## EMERGENCY

## a) Application

1) Procurements of \$10,000 or less for supplies or services, other than professional and artistic, and \$30,000 or less for construction may be made using the method of source selection determined by the Procurement Officer to be most appropriate to the circumstances.

2) Procurements of less than \$20,000 for professional and artistic services and that have a non-renewal term of one year or less may be made using the method of source selection determined by the Procurement Officer to be most appropriate to the circumstances.

3) The CPO shall announce any change identified by the United States Department of Labor in the Consumer Price Index for All Urban Consumers for the period ending December 31, 1998, and for each year thereafter. That percentage change shall be used to calculate the small purchase maximums that shall be applicable for the fiscal year beginning July 1, 1999. The small purchase maximums shall be likewise recalculated for each July 1 thereafter.

b) In determining whether a contract is under the limit, the value of the contract for the full term and all optional renewals, determined in good faith, shall be utilized. The stated value of the supplies or services, plus any optional supplies and services, shall be utilized. Where the term is calculated month-to-month or in a similar fashion,

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

the amount shall be calculated for a twelve month period.

c) If only a unit price or hourly rate is known, the contract shall be considered small and shall have a not to exceed limit applicable to the type of procurement (see subsection (a) above).

d) If, after signing the contract, the actual cost of completing the contract is determined to exceed \$10,000, and the Procurement Officer determines that a supplemental procurement is not economically feasible or practicable because of the immediacy of the agency's needs or other circumstances, the Procurement Officer must follow the procedures for sole source or emergency procurement, whichever is applicable, to complete the contract.

e) Procurement requirements shall not be artificially divided to avoid using the other source selection methods set forth in Section 20-5 of the Illinois Procurement Code.

f) If there is a repetitive need for small procurements of the same type, the Procurement Officer shall consider issuing a competitive sealed bid or proposal for procurement of those needs.

Section 1.2025 Sole Economically Feasible Source Procurement  
EMERGENCY

## a) Application

The provisions of this Part apply to procurement from a sole economically feasible source (referred to as sole source) unless the estimated amount of the procurement is within the limit set in Section 1.2020 (Small Purchases) or unless emergency conditions exist as defined in Section 1.2030 (Emergency Procurements) of this Part.

## b) Conditions for Use of Sole Source Procurement

Sole source procurement is permissible when a requirement is available from only a single supplier or when only one supplier is deemed economically feasible. A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder or offeror authorized to provide that item. The following are examples of circumstances that could necessitate sole source procurement:

- 1) where the compatibility of equipment, accessories, replacement parts, or service is a paramount consideration;
  - 2) where a sole supplier's items are needed for trial use or testing;
  - 3) where a sole supplier's item is to be procured for commercial resale;
  - 4) where public utility regulated services are to be procured;
  - 5) where the item is copyrighted or patented and the item or service is not available except from the holder of the copyright or patent;
  - 6) the procurement of the media for advertising; and
  - 7) the procurement of art or entertainment services.
- c) Changes

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

Changes to an existing contract that are germane and reasonable in scope and cost in relation to the original contract or program, that are necessary or desirable to complete the contract or program, and that can be best accomplished by the contract holder may be procured under this Section when the Procurement Officer determines that the cost of delay or disruption to the contract or program, and the cost of a new solicitation, clearly indicate that the existing vendor is the sole economically feasible source.

## d) Procurement Officer to Determine

1) The determination as to whether a procurement shall be made as a sole source shall be made by the Procurement Officer. Such determination and the basis therefore shall be in writing. Such officer may specify the application of such determination and the duration of its effectiveness.

2) Any purchase request submitted to the CPO suggesting that a procurement be restricted to one potential vendor shall be accompanied by an explanation as to why no other vendor will be suitable or acceptable to meet the need.

## e) Publication of Sole Source Notice

The Procurement Officer shall publish in the Bulletin notice of intent to contract with that vendor at least 14 days prior to execution of the contract.

1) If no challenge to this determination is made by a vendor within the 14 day period, the Procurement Officer may execute a contract with that vendor.

2) If a challenge is received, the Procurement Officer shall consider the information and shall commence a competitive procurement if the Procurement Officer determines that more than one economically feasible source may be available and the sole source designation is, therefore, not appropriate, unless an emergency situation exists.

## f) Negotiation in Sole Source Procurement

The Procurement Officer shall conduct negotiations, as appropriate, to reach contract terms, including price, and shall maintain a record of each sole source procurement showing:

- 1) the vendor's name;
- 2) the amount and type of the contract;
- 3) what was procured; and
- 4) the identification number of the contract file.

Section 1.2030 Emergency Procurements  
EMERGENCY

## a) Applications

The provisions of this Part apply to every procurement over the small purchase limit set in Section 1.2020 (Small Purchases) of this Part made under emergency, including quick purchase, conditions.

## b) Definition of Emergency Conditions

## NOTICE OF EMERGENCY RULES

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

1) A procurement may be made under this Section in situations in which:

- A) public health or safety, including the health or safety of any particular person, is threatened;
- B) immediate repairs are needed to State property to protect against further loss or damage to State property, or to prevent loss or damage to State property;
- C) immediate action is needed to prevent or minimize serious disruption in State services;
- D) action is needed to ensure the integrity of State records;
- E) a supplier announces bankruptcy, cessation of business, or loss of franchise, or gives other similar reason such that making a purchase immediately is more advantageous to the State than instituting a competitive procurement under the provisions of this Code for the supplies or services;
- F) items are available on the spot market or at discounted prices for a limited time so that good business judgment mandates a purchase immediately to take advantage of the availability and price;
- G) equipment or services are necessary in the furtherance of covert activities lawfully conducted by a State agency. Any required disclosures shall be made so as not to jeopardize those covert activities;
- H) immediate action is necessary to avoid lapsing or loss of federal or donated funds;
- I) availability of rare items such as books of historical value;
- J) the procurement is for entertainment;
- K) extending an existing contract for such period of time as is needed to conduct a competitive method of source selection where terminating or allowing the contract to terminate would not be advantageous to the State; or
- L) the need for services to protect or further State interests is immediate and use of other competitive source selection procedures under the Code and this Part cannot be accomplished without significant risk of causing serious disadvantage to the State.

2) After Unsuccessful Competitive Sealed Bidding or Proposals or Request for Proposals. When bids or proposals received pursuant to a competitive sealed bid or competitive sealed proposal method are unreasonable or noncompetitive, or the price exceeds available funds, and time or other circumstances will not permit the delay required to resolicit competitive sealed bids or proposals, and if emergency conditions exist after an unsuccessful attempt to use competitive sealed bidding, an emergency procurement may be made.

## c) Scope of Emergency Conditions

Emergency procurements shall be limited to the items, quantity and



## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

term necessary to meet the emergency need.

- d) Authority to Make Emergency Procurements
- Whenever practical, existing State contracts shall be utilized and, whenever practical, approval by the CPO shall be obtained prior to procuring items reserved to the CPO. The SPO of each agency shall be responsible for making the filings required in Section 20-30 of the Code.

- e) Source Selection Methods

Any method of source selection, whether or not identified in this Part, may be used to conduct the procurement in emergency situations. The procedure used shall be selected to assure that the required items are procured in time to meet the emergency. Such competition as is practicable shall be obtained.

- f) Determination and Record of Emergency Procurement

1) Determination. The Procurement Officer shall make a written determination stating the basis for an emergency procurement and for the selection of the particular vendor. Such determinations shall be kept in the contract file of the Procurement Officer.

2) Record. An affidavit of each emergency procurement shall be filed with the CPO and the Auditor General within 10 days after the procurement and shall include the following information:

- A) the vendor's name;
  - B) the amount and type of the contract, provided that if only an estimate of the amount is available immediately, the record shall be supplemented with the final amount once known;
  - C) a description of what the vendor will do or provide;
  - D) the reasons for using the emergency method of source selection.
- 3) Notice of the emergency procurement shall be published in the Bulletin in accordance with Subpart D of this Part.

### Section 1.2035 Competitive Selection Procedures for Professional and Artistic Services EMERGENCY

- a) Application

1) The provisions of this Section apply to every procurement of professional and artistic services except those subject to the Architectural, Engineering and Land Surveying Qualifications Based Selection Act [30 ILCS 535].

2) "Professional and artistic services" means those services provided under contract to a State agency by a person or business, acting as an independent contractor, qualified by education, experience, and technical ability [30 ILCS 525/1-15.60].

- b) Professional and artistic services are further defined as follows:

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

1) "Qualified by education" means the individual who would perform the services must have obtained the level of education specified in the Request for Proposals.

2) "Qualified by experience" means the individual who would perform the services must have the level of general experience specified in the Request for Proposals.

3) "Qualified by technical ability" means the individual who would perform the services must demonstrate a high degree of skill or ability in performing services that are the same, similar or closely related in nature to those specified in the Request for Proposals.

4) An essential element distinguishing professional and artistic services from other services is confidence, trust, and belief in not only the ability, but the talent, of the individual performing the service. These services are primarily for intellectual or creative skills. Contracts for services primarily involving manual skills or labor are not professional and artistic services contracts. (See Illinois Attorney General Opinion S-256, January 20, 1971.)

5) If the professional or artistic contract is with a firm or other business entity, the individuals whose education, experience and technical ability provided the basis on which the firm or other business entity was selected must meet the qualifications.

6) When a State agency requires services that meet the requirements of this subsection (b), the competitive selection procedures described in this Section must be followed. Services that do not meet the requirements of this Section must be procured in accordance with other methods of source selection authorized by the Code and this Part.

c) The categories of services enumerated below shall be considered and procured as professional and artistic services. With regard to other services, the SPO may determine whether the factors identified in subsection (b), when applied to particular services to be procured, require such services to be procured as professional and artistic under these competitive selection procedures, or as services that are subject to one of the other methods of source selection authorized by the Code and this Part. The following categories are examples of disciplines that would always be professional and artistic services:

- 1) law;
  - 2) accounting;
  - 3) medicine;
  - 4) dentistry; and
  - 5) clinical psychology.
- d) Architect, engineering and land surveying services shall be procured pursuant to the procedures of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535]. Such procurements are not subject to the procedures for other professional services established in the Code or this Part.

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

- e) Conditions for Use of Competitive Selection Procedures  
Except as authorized under Section 20-25 (Sole Source Procurement) or Section 20-30 (Emergency Procurements) of the Code, these competitive selection procedures shall be used for all procurements of professional and artistic services of \$20,000 or more. Services less than \$20,000 and for a nonrenewable term of one year or less may be procured in accordance with Section 1.2020 (Small Purchases) of this Part.
- f) Prequalification. The CPO shall maintain a list of prequalified professional and artistic vendors in accordance with Section 1.2045 of this Part. Persons may amend statements of qualifications at any time by filing a new statement. Failure of a professional and artistic vendor to prequalify shall not be cause for rejection of a proposal provided that the responsive offeror supplies with its proposal all information defined by the prequalification process.
- g) Public Notice of Competitive Selection Procedures  
1) Notice of the need for professional and artistic services shall be made by the Procurement Officer in the form of a Request for Proposals.  
2) Notice shall be given as provided in Section 1.2010 (Competitive Sealed Bidding) of this Part.  
3) Notice shall also be distributed to prequalified persons interested in performing the services required by the proposed contract.
- h) Request for Proposals  
1) Contents. The Request for Proposals shall be in the form specified by the CPO and shall contain at least the following information:  
A) the type of services required;  
B) a description of the work involved;  
C) an estimate of when and for how long the services will be required;  
D) the type of contract to be used;  
E) a date by which proposals for the performance of the services shall be submitted;  
F) a statement of the minimum information that the proposal shall contain, which may, by way of example, include:  
i) the name of the offeror, the location of the offeror's principal place of business and, if different, the place of performance of the proposed contract;  
ii) if deemed relevant by the Procurement Officer, the age of the offeror's business and average number of employees over a previous period of time, as specified in the Request for Proposals;  
iii) the abilities, qualifications, and experience of all persons who would be assigned to provide the required services;  
iv) a listing of other contracts under which services

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

- similar in scope, size, or discipline to the required services were performed or undertaken within a previous period of time, as specified in the Request for Proposals;
- v) a plan, giving as much detail as is practical, explaining how the services will be performed;
- G) price (to be submitted in a separate envelope in the proposal package and not mentioned elsewhere in the proposal package); and
- H) the factors to be used in the evaluation and selection process and their relative importance.
- 2) Evaluation. Proposals shall be evaluated only on the basis of evaluation factors stated in the Request for Proposals. Price will not be evaluated until ranking of all proposals and identification of the most qualified vendor. The relative importance of the evaluation factors will vary according to the type of services being procured. The minimum factors are:
- A) the plan for performing the required services;
- B) ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services;
- C) the personnel, equipment, and facilities to perform the services currently available or demonstrated to be made available at the time of contracting; and
- D) a record of past performance of similar work.
- i) Pre-Proposal Conference  
A pre-proposal conference, if appropriate, shall be conducted in accordance with Section 1.2010(f) (Pre-Bid Conference). Such a conference may be held anytime prior to the date established for submission of proposals.
- j) Delivery, Receipt and Handling of Proposals  
1) Proposals shall be submitted to and opened by the CPO in accordance with instructions given by the CPO to the SPO.  
2) Public Opening  
A) Proposals and modifications shall be opened publicly at the time, date and place designated in the Request for Proposals.  
B) Opening shall be witnessed by a State employee or by any other person present, but the person opening proposals shall not serve as witness. A record shall be prepared that shall include the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the supply or service item offered. The record of proposals shall be open to public inspection after award of the contract.  
C) Proposals and modifications shall be opened in a manner



## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

designed to avoid disclosing contents to competitors. Only State personnel and contractual agents may review the proposals prior to award.

- D) Proposals of offerors who are not awarded the contract shall not be open to public inspection.

- 3) Transmission to SPO. The CPO will forward timely proposals to the SPO of the using agency along with any pertinent information contained in the files of the CPO regarding the vendors who submitted proposals.

- 4) The CPO may require that the SPO be present at and assist in the opening and registration of proposals and the transportation of proposals to the SPO.

k) Discussions

- 1) Discussions Permissible. The Procurement Officer may conduct discussions with any offeror to:

- A) determine in greater detail such offeror's qualifications; and

- B) explore with the offeror the scope and nature of the required services, the offeror's proposed method of performance, and the relative utility of alternative methods of approach. The Procurement Officer may allow changes to the proposal based on those discussions.

- 2) No Disclosure of Information. Discussions shall not disclose any information derived from proposals submitted by other offerors, and the agency conducting the procurement shall not disclose any information contained in any proposals until after award of the proposed contract has been made. The proposal of the offeror awarded the contract shall be open to public inspection except as otherwise provided in the contract.

l) Selection of the Best Qualified Offerors

After conclusion of validation of qualifications, evaluation, and discussion, the Procurement Officer shall rank the acceptable offerors in the order of their respective qualifications.

m) Evaluation of Pricing Data

Pricing submitted for all acceptable proposals shall be opened and ranked.

- 1) If the low price is submitted by the most qualified vendor, the Procurement Officer may award to that vendor.

- 2) If the price of the most qualified vendor is not low and if it does not exceed \$25,000, the Procurement Officer, but not a designee, may award to that vendor.

- 3) If the price of the best qualified vendor exceeds \$25,000, the Procurement Officer, but not a designee, must state why a vendor other than the low priced vendor was selected and that determination shall be published in the Bulletin.

n) Negotiation and Award of Contract

- 1) General. The Procurement Officer shall attempt to negotiate a contract with the best qualified offeror for the required

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

services at fair and reasonable compensation. The Procurement Officer may, in the interest of efficiency, negotiate with other vendors, while negotiating with the best qualified vendor.

- 2) Elements of Negotiation. At a minimum, contract negotiations shall be directed toward:

- A) making certain that the offeror has a clear understanding of the scope of the work, specifically, the essential requirements involved in providing the required services;

- B) determining that the offeror will make available the necessary personnel and facilities to perform the services within the required time; and

- C) agreeing upon compensation that is fair and reasonable, taking into account the estimated value of the required services and the scope, complexity, and nature of such services.

3) Successful Negotiation of Contract with Best Qualified Offeror

- A) If compensation, contract requirements, and contract documents can be agreed upon with the best qualified offeror, the contract shall be awarded to that offeror, unless the procurement is canceled.

- B) Compensation must be determined in writing to be fair and reasonable. Fair and reasonable compensation shall be determined by the Procurement Officer based on the circumstances of the particular procurement, including but not limited to the nature of the services needed, qualifications of the offerors, consideration of range of prices received in the course of the procurement, and the agency's identified budget.

4) Failure to Negotiate Contract with Best Qualified Offeror

- A) If compensation, contract requirements, or contract documents cannot be agreed upon with the best qualified offeror, a written record stating the reasons therefore shall be placed in the file. The Procurement Officer shall advise such offeror of the termination of negotiations.

- B) Upon failure to negotiate a contract with the best qualified offeror, the Procurement Officer may enter into negotiations with the next most qualified offeror.

- C) Nothing in this Section shall prohibit the Procurement Officer from making a selection that represents the best value, qualifications, price and other relevant factors established in the request for proposals being considered. The Procurement Officer may, in considering best value, determine the proposal from a fully qualified vendor that submitted the lowest price to be the best value without further evaluation.

- o) The Procurement Officer procuring professional and artistic services, including those under an exception described in subsection (e), shall provide to the CPO the information necessary for publication in the



## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

## Bulletin.

- p) Notice of Award. Written notice of award shall be public information and made a part of the contract file. The CPO shall publish the names of the responsible decision makers of the purchasing agency, the name of the agency, the successful vendor, a contract reference number or other identifier, and the value of the contract. Publication shall be in the next available issue of the Bulletin.
- q) Post Performance Review. The SPO of the using agency shall provide a synopsis of the contract and shall rate the vendor's performance using the form developed by the CPO. A copy of the completed form shall be provided to the CPO.

### Section 1.2036 Other Methods of Source Selection

#### EMERGENCY

## a) Split Award

- 1) An award of a definite quantity requirement may be split between bidders or offerors. Each portion shall be for a definite quantity and the sum of the portions shall be the total definite quantity required. A split award may be used only when award to more than one bidder or offeror for different amounts of the same item are necessary to obtain the total quantity or the required delivery.

- 2) The Procurement Officer shall make a written determination setting forth the reasons for the split award, which determination shall be made a part of the procurement file.

## b) Multiple Award

- 1) A multiple award is an award of an indefinite quantity contract to more than one bidder or offeror when the State is obligated to order all of its actual requirements from those vendors.
- 2) A multiple award may be made when award to two or more bidders or offerors for similar products is necessary for adequate delivery, service, or product compatibility. Any multiple award shall be made in accordance with the provisions of Section 1.2010 (Competitive Sealed Bidding), Section 1.2015 (Competitive Sealed Proposals), Section 1.2020 (Small Purchases), and Section 1.2030 (Emergency Procurements), as applicable. Awards shall not be made for the purpose of simply dividing the business or to select products or suppliers to allow for user preference unrelated to utility or economy. Any such awards shall be limited to the least number of suppliers necessary to meet the valid requirements of State agencies.
- 3) The State shall reserve the right to take bids separately if a particular quantity requirement arises that exceeds its normal requirement or an amount specified in the contract.
- 4) If a multiple award is anticipated, the solicitation shall state this fact as well as the criteria for award.
- 5) In a multiple award situation, one vendor may be designated as

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

the primary recipient of orders. The other awardees may receive orders in the event the primary vendor is unable to deliver or for other reasons as determined by the Procurement Officer.

## c) Term and Condition Contracts

- 1) A term and condition contract contains agreed contractual terms and conditions established for the convenience of the parties to be used in conjunction with a subsequent procurement and processed in accordance with the requirements of the Code and this Part. A term and condition contract is not a procurement. It creates no obligation on the part of the State to procure from the vendor nor does it create an authorization for a State agency to order based on that master contract, except as provided in subsection (c)(2).
- 2) Orders may be placed against term and condition contracts without use of any prescribed method of source selection for convenience of processing small procurements. Agencies with reasonably defined repetitive small needs that, over the course of a fiscal year, are likely to exceed the small purchase amount set in Section 20-20 of the Code and this Part should consider a competitive method of source selection to contract for those repetitive needs.
- d) Auction  
Purchases may be made at auction in accordance with the procedural requirements applicable to the particular auction. Notice and competition is not required and the amount payable shall be the amount bid and accepted plus any required buyer's premium.
- e) Non-governmental Joint Purchase  
1) The CPO may enter into (or authorize one or more SPOs to enter into) an agreement with a person not eligible for the Governmental Joint Purchasing Act for the joint procurement of anything covered by the Code. Any method of source selection may be used and may be modified or adapted to meet the needs of the non-State entity.
- 2) The primary use of this provision shall be to accommodate mutual relationships between the State and not-for-profit groups whose purpose is to conduct programs adjunct to those of the State agency that is party to the contract.
- f) Federal Requirements  
The Procurement Officer for any State agency receiving federal aid funds, grants or loans may conduct procurements in accordance with federal requirements that are necessary to receive or maintain those federal aid funds, grants or loans.
- g) Foreign Country Procurement  
Procurements to meet the needs of State agency offices located in foreign countries shall comply with the Code and this Part whenever practicable. The SPO shall maintain a record of such action.
- h) Donations  
1) When a procurement will have the majority of funding from a

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

donation, the terms of which donation require use of particular procurement or contracting procedures, the Procurement Officer may follow those procedures, but shall follow the Code and this Part whenever practicable.

- 2) Donations may be acknowledged by the donee agency in a manner appropriate to the type of donation and the program activity associated with the donation. Acknowledgment may include, but need not be limited to, public announcement at the event or in donee agency publications, and inviting the donor to attend the program activity associated with the donation.

## Section 1.2037 Tie Bids and Proposals

## EMERGENCY

- a) Tie bids or proposals are those from responsive and responsible vendors that are identical in price or evaluation and represent the low price.

- b) Tie bids or proposals will be treated as follows:

- 1) If the tied vendors include an Illinois resident vendor, the Illinois resident vendor shall be given the award. In all other situations, including if two or more Illinois resident bidders are tied, the decision shall be made in accordance with this subsection (b). "Illinois resident vendor" has the meaning given in Section 1.4510 (Resident Bidder Preference) of this Part.

- 2) If there is a significant difference in responsibility (including ability to provide the service or deliver in the quantity and at the time required), the award will be made to the vendor who is deemed to be the most responsible. A vendor who has had experience in contracting with the State shall be given additional consideration in determining responsibility if the Procurement Officer determines that dealing with a vendor that has knowledge of State requirements, contracts, job sites, payment practices and such other factors and with which there has been favorable past experience increases the likelihood of successful performance.

- 3) If there is no significant difference in responsibility, but there is a difference in the quality of the supplies or services offered, the vendor offering the best quality will be accepted.

- 4) If there is no significant difference in responsibility and no difference in quality of the supplies or services offered, the vendor offering the earliest delivery time will be accepted in any case in which the solicitation specified that the needs of the agency require delivery as early as possible.

- 5) If the bids or proposals are equal in every respect, the award shall be made by lot unless the Procurement Officer determines that splitting the award among two or more of the tied bidders is in the best interest of the State. Awards may be split if all

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

affected bidders agree, if splitting is feasible given the type of supplies or services requested, if overall pricing would not increase, if delivery would be better ensured, or if necessary or desirable to promote future competition.

- c) Record. Each SPO shall provide a report to the CPO on a quarterly basis of all procurements on which tie bids or proposals were received. The report shall provide at least the following information:

- 1) the identification number of the solicitation;
- 2) a description of what was procured; and
- 3) a listing of all the bidders and the prices submitted.

## Section 1.2038 Mistakes

## EMERGENCY

- a) General. Corrections to bids, proposals or other procurement processes are allowed, but only to the extent not contrary to the best interest of the State or the fair treatment of other bidders.

- b) Mistakes Discovered Before Opening. A vendor may correct mistakes discovered before the time and date set for opening by withdrawing or correcting as provided in this Section.

- c) Confirmation of Mistake. When the Procurement Officer knows or has reason to conclude that a mistake has been made, such officer shall request the vendor to confirm the information. Situations in which confirmation should be requested include obvious or apparent errors on the face of the document or a price unreasonably lower than the others submitted. If the vendor alleges a mistake, the bid or proposal may be corrected or withdrawn if the conditions set forth in this Section, as applicable, are met.

- d) Mistakes in Bids Discovered After Opening but Before Award. This subsection (d) sets forth procedures to be applied in situations in which mistakes in bids are discovered after the time and date set for bid opening but before award.

- 1) Minor informalities. A minor informality or irregularity is one that is a matter of form or pertains to some immaterial or inconsequential defect or variation of a bid from the exact requirement of the Invitation for Bids, the correction or waiver of which would not be prejudicial to the State (i.e., the effect on price, quality, quantity, delivery, or contractual conditions is negligible). The Procurement Officer shall waive such informalities or allow the bidder to correct them depending on which is in the best interest of the State. Examples of minor informalities as to form include the failure of a bidder to:

- A) return the number of signed bids required by the Invitation for Bids;
- B) acknowledge receipt of an amendment to the Invitation for Bids, but only if:
  - i) it is clear from the bid that the bidder received the

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

amendment and intended to be bound by its terms; or  
 ii) the amendment involved had a negligible effect on price, quantity, quality, or delivery.

2) Mistakes Where Intended Correct Bid Is Evident. If the mistake and the intended correct bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors.

3) Mistakes Where Intended Correct Bid Is Not Evident. A bidder may be permitted to withdraw a low bid if:

- A) a mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
- B) the bidder submits proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made.

e) Mistakes in Proposals Discovered After Receipt, but Before Award. This subsection (e) sets forth procedures to be applied in four situations in which mistakes in proposals are discovered after receipt of proposals but before award.

- 1) During Discussions; Prior to Best and Final Offers. Once discussions are commenced with any offeror or after best and final offers are requested, any offeror may freely correct any mistake prior to the date set for conclusion of discussions or for receipt of best and final offers.

2) Minor Informalities. Minor informalities, unless otherwise corrected by an offeror as provided in this Section, shall be treated as they are under subsection (d).

- 3) Correction of Mistakes. If discussions are not held or if the best and final offers upon which award will be made have been received, mistakes may be corrected and the intended correct offer considered only if:

A) the mistake and the intended correct offer are clearly evident on the face of the proposal, in which event the proposal may not be withdrawn; or

B) the mistake is not clearly evident on the face of the proposal, but the offeror submits adequate proof that clearly and convincingly demonstrates both the existence of a mistake and the intended correct offer, and such correction would not be contrary to the fair and equal treatment of other offerors.

- 4) Withdrawal of Proposals. If discussions are not held, or if the best and final offers upon which award will be made have been received, the offeror may be permitted to withdraw the proposal if:

A) the mistake is clearly evident on the face of the proposal and the intended correct offer is not;

B) the offeror submits proof of evidentiary value that clearly

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

and convincingly demonstrates that a mistake was made but does not demonstrate the intended correct offer; or  
 C) the offeror submits adequate proof that clearly and convincingly demonstrates the intended correct offer, but to allow corrections would be contrary to the fair and equal treatment of other offerors.

f) Mistakes Discovered After Award. Mistakes shall not be corrected after award of the contract except where the Procurement Officer finds it would be unconscionable (e.g., if the mistake resulted in a windfall to the State) not to allow the mistake to be corrected.

g) Determinations Required. When a proposal is corrected or withdrawn, or correction or withdrawal is denied, a written determination shall be prepared showing that relief was granted or denied in accordance with this Part. The Procurement Officer shall prepare the determination.

### Section 1.2040 Cancellation of Solicitations; Rejection of Bids or Proposals EMERGENCY

a) Scope of this Section

The provisions of this Section shall govern the cancellation of any solicitations whether issued by the State under competitive sealed bidding, competitive sealed proposals, small purchases, or any other source selection method, and rejection of bids or proposals in whole or in part.

b) Policy

Any solicitation may be canceled when the Procurement Officer believes cancellation to be in the State's best interest. Nothing shall compel the award of a contract.

c) Cancellation of Solicitation; Rejection of All Bids or Proposals Prior to Opening

1) As used in this Section, "opening" means the date set for opening of bids, receipt of unpriced technical offers in multi-step sealed bidding, or receipt of proposals in competitive sealed proposals.

2) Prior to opening, a solicitation may be canceled in whole or in part when the Procurement Officer determines in writing that such action is in the State's best interest for reasons including, but not limited to:

- A) the State no longer requires the supplies or services;
- B) the State no longer can reasonably expect to fund the procurement; or
- C) proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable.

3) When a solicitation is canceled prior to opening, notice of cancellation shall be sent to all businesses that responded to the solicitation.

4) The notice of cancellation shall:



## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

- A) identify the solicitation;
- B) briefly explain the reason for cancellation; and
- C) where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurements of similar supplies or services.
- d) Cancellation of Solicitation; Rejection of All Bids or Proposals After Opening
- 1) After opening but prior to award, all bids or proposals may be rejected in whole or in part when the Procurement Officer determines in writing that such action is in the State's best interest. Such reasons may include, but are not limited to:
    - A) the supplies or services being procured are no longer required;
    - B) ambiguous or otherwise inadequate specifications were part of the solicitation;
    - C) the solicitation did not provide for consideration of all factors of significance to the State;
    - D) prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
    - E) all otherwise acceptable bids or proposals received are at clearly unreasonable prices; or
    - F) there is reason to question whether the bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith.
  - 2) When the solicitation is canceled or when all bids or proposals are rejected, all vendors who submitted bids or proposals shall be sent a notice upon request informing them of the reasons for the cancellation or rejection.
- e) Documentation. The reasons for cancellation or rejection shall be made a part of the procurement file and shall be available for public inspection.
- f) Rejection of Individual Bids or Proposals
- 1) General. This subsection (f) applies to rejections of individual bids or proposals in whole or in part.
  - 2) Notice in Solicitation. Each solicitation shall provide that any bid or proposal may be rejected in whole or in part when in the best interest of the State as provided in this Section.
  - 3) Reasons for Rejection
- Reasons for rejecting a bid or proposal may include, but are not limited to:
- A) the business that submitted the bid or proposal is nonresponsible as determined under Section 1.2046 (Responsibility) of this Part;
  - B) the bid or proposal is not responsive, that is, it does not conform in all material respects to the solicitation;
  - C) the proposal ultimately (that is, after any opportunity has

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

- passed for altering or clarifying the proposal) fails to meet the announced requirements of the State in some material respect;
- D) the supply or service item offered in the bid is unacceptable by reason of its failure to meet the requirements of the specifications or permissible alternates or other acceptability criteria set forth in the Invitation for Bids; or
- E) the proposed price is clearly unreasonable.
- 4) Notice of Rejection. Upon request, unsuccessful bidders or offerors shall be advised of the reasons for rejection.

## SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section 1.2043 Suppliers  
EMERGENCY

- a) An agency with procurement authority may contract with any qualified source of supply, but must procure from the Directed Sources except as permitted by those sources, and must consider the following Special Sources.
- b) Directed Sources -- State-Produced Supplies or Services
- 1) Correctional Industries. The CPO, after consulting with the Department of Corrections, shall determine the type and extent of the preference purchasing agencies shall give to supplies produced or services performed by Correctional Industries. Factors to be considered in determining the preference include, but are not limited to, the ability of Correctional Industries to meet the State's requirements, the price charged and the reason for the Correctional Industries program. This information shall be provided to each SPO.
  - 2) Central Services. Supplies and services available from the program operations of the Department of Central Management Services shall be utilized unless the CPO authorizes procurement from other sources.
- c) Special Sources
- 1) Prior to any equipment procurement, each agency should consider property available from the State and Federal Surplus Warehouses, which are under the jurisdiction of the Department of Central Management Services. 30 ILCS 605/7a requires that surplus furniture be considered before any purchase of new furniture valued at \$500 or more per piece.
  - 2) Various supplies and services are available from qualified workshops for the disabled and procurement from these workshops is encouraged. Notice and competition is not required pursuant to Section 45-35 of the Code. Information regarding the workshops is available from the Department.
  - 3) Various supplies and services are available from State agencies

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

and other governmental units. These may be procured without notice and competition.

### Section 1.2044 Vendor List/Required Use EMERGENCY

- a) The CPO shall maintain a list of vendors interested in doing business with the State. The names and addresses of vendors on the list shall be available for public inspection.
- b) Inclusion on, or exclusion from, the list shall not be a factor in determining whether a vendor is a responsible vendor.
- c) When vendors are directly solicited by the State, Invitations for Bids and other solicitations will be sent to vendors on the vendor list for supplies or services in question, except in the following cases:
  - 1) The vendor does not sell the particular commodity or equipment.
  - 2) The number of vendors for a procurement classification is of such magnitude that optimum prices may reasonably be expected without soliciting the entire vendor list. The Procurement Officer may, if he/she determines that the best interest of the State would be served, rotate the selection from the list on any equitable basis.
  - 3) The Procurement Officer determines that the best interests of the State will be served by limiting vendors to those in defined geographic areas (example: purchases of ready-mix concrete, perishables, and equipment requiring immediate service).

### Section 1.2045 Prequalification EMERGENCY

- a) General
  - 1) An opportunity to prequalify shall be allowed at least one time each fiscal year. The opportunity to prequalify and whether prequalification will be a condition of bidding or being awarded a contract shall be announced in the Bulletin.
  - 2) The fact that a prospective vendor has been prequalified does not necessarily represent a finding of responsibility for a particular procurement.
  - 3) Except in the case of professional and artistic services, distribution of and responses to the solicitation may be limited to prequalified vendors and award of a contract may be denied because a vendor was not prequalified.
- b) Professional and Artistic Services
  - 1) When the services are needed on a recurring basis, the CPO shall actively solicit persons engaged in providing such services to submit annual statements of qualifications in a prescribed format that shall include at a minimum the following information:
    - A) technical education and training;
    - B) general or special experience, certifications, licenses, and

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

- C) an expression of interest in providing a particular professional and artistic service.
- 2) Categories for prequalification will include, but are not limited to, those listed in Section 1.2035 of this Part.
- c) Qualified Products Lists. Qualified products lists are treated in Section 1.2050 (Specifications and Samples) of this Part.

### Section 1.2046 Responsibility EMERGENCY

- a) Application
 

Contracts are to be made only with responsible vendors unless no responsible vendor is available to meet the State's needs. If there is doubt about responsibility, and if a bond or other security would adequately protect the State's interests, then that vendor may be awarded a contract upon receipt of the bond or other security.

Standards of Responsibility

  - 1) Standards. Factors to be considered in determining whether the standard of responsibility has been met include whether a prospective vendor:
    - A) has available the appropriate financial, material, equipment, facility, and personnel resources and expertise (or the ability to obtain them) necessary to indicate its capability to meet all contractual requirements (the Procurement Officer may designate a level of financial resource below which the vendor will be deemed "not responsible");
    - B) is able to comply with required or proposed delivery or performance schedules, taking into consideration all existing commercial and governmental commitments;
    - C) has a satisfactory record of performance. Vendors who are or have been deficient in current or recent contract performance in dealing with the State or other customers may be deemed "not responsible" unless the deficiency is shown to have been beyond the reasonable control of the vendor;
    - D) has a satisfactory record of integrity and business ethics. Vendors who are under investigation or indictment for criminal or civil actions that bear on the particular procurement or that create a reasonable inference or appearance of a lack of integrity on the part of the vendor may be declared not responsible for the particular procurement;
    - E) is qualified legally to contract with the State;
    - F) has supplied all necessary information in connection with the inquiry concerning responsibility;
    - G) has a current Public Contracts number from the Illinois

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

Department of Human Rights, pursuant to 44 Ill. Adm. Code 750.210, if required. Proof of application prior to opening of bids or proposals will be sufficient for an initial determination; and

H) pays prevailing wages, if required by law.

2) Information Pertaining to Responsibility. The prospective vendor shall supply information requested by the Procurement Officer concerning the responsibility of such vendor. The State may supplement this information from other sources and may require additional documentation at any time. If such vendor fails to supply the requested information, the Procurement Officer shall base the determination of responsibility upon any available information, or may find the prospective vendor nonresponsible.

c) Ability to Meet Standards

The prospective vendor may demonstrate the availability of necessary financing, equipment, facilities, expertise, and personnel by submitting upon request:

- 1) evidence that such vendor possesses such necessary items;
- 2) acceptable plans to subcontract for such necessary items; or
- 3) a documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items.

d) Duty Concerning Responsibility

Before awarding a contract, the Procurement Officer must be satisfied that the prospective vendor is responsible. Responsibility can be proven until time of contract execution unless the solicitation or other law requires that the vendor submit information necessary to determine responsibility by a stated date or time.

e) Written Determination of Nonresponsibility Required

If a vendor who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the CPO or the SPO. The final determination shall be made part of the procurement file.

f) Bond for Responsibility

Vendors not having a history of performance may be considered responsible if no other disqualifying factors exist. A bond or other security may be required of such vendors.

g) Affiliated Companies

Vendors who are newly formed business concerns having substantially the same owners, officers, directors, or beneficiaries as a previously existing vendor that has been determined not responsible will also be determined not to be responsible unless the new organization can prove it was not set up for the purpose of avoiding an earlier determination of nonresponsibility.

## SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

## Section 1.2047 Security Requirements

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

## EMERGENCY

- a) A Procurement Officer may require that a vendor furnish bid, proposal, or performance security on State contracts. Whenever security is required, except as provided herein, the procurement document will clearly indicate the type and amount of security.
- b) Security, unless otherwise specified, may be in the form of cashier's check, certified check, money order, irrevocable letter of credit or bond. Any bond must be issued by a surety company authorized to do business in the State of Illinois.
- c) Unless the amount is set by law, the Procurement Officer will determine the amount, in dollars or percentage of contract price, that will adequately protect the State's interests. That amount will vary depending on the type of procurement and the risks and potential losses associated with delay or failure to complete the project, and for other such reasons.
- d) A vendor may be required to furnish up to 100% performance security at any time during contract performance and at its cost, if it appears that delivery or production schedules cannot be met, quality is poor, responsibility is questioned and for similar reasons.
- e) Permissive/Mandatory Security
  - 1) Bid or proposal security is permissive on any contract but is not appropriate on emergency or sole source procurements.
  - 2) Performance security is permissive on any contract and is recommended on contracts calling for advance payment.
  - 3) Performance security is required on all public works contracts.
- f) A vendor may submit a single or continuous security each year that will be applicable on all contracts of the purchasing agency. When such security has been obligated in an amount equal to the sum of accumulated security requirements, additional security must be submitted.
- g) Bid or proposal security will be returned to unsuccessful vendors as soon after award as possible. The bid or proposal security of the successful vendor will be returned after contracts have been signed and performance security, if any, submitted. Performance security will be returned upon full performance.

## SUBPART H: SPECIFICATIONS AND SAMPLES

## Section 1.2050 Specifications and Samples

## EMERGENCY

- a) Responsibilities Regarding Specifications
  - 1) The Procurement Officer shall write the necessary specifications except as noted in this subsection (a).
  - 2) If a specification for general or common use or a qualified products list exists for an item to be procured under Section 20-20 of the Code (Small Purchases), it shall be used except as



## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

otherwise authorized by the CPO. If no such specification exists, SPOs shall have the authority to prepare specifications for use in such purchases. In an emergency under Section 20-30 of the Code, any necessary specification may be utilized without regard to the provisions of this Subpart.

## b) Procedures for the Development of Specifications

- 1) If the CPO develops a specification for a common or general use item or has developed a qualified products list in accordance with this Section for a particular supply or service, it shall be used unless the CPO authorizes use of another specification.
- 2) All procurements shall be based on specifications that accurately reflect the State's needs. Specifications shall clearly and precisely describe the salient technical or performance requirements.
- 3) Specifications shall not include restrictions that do not significantly affect the technical requirements or performance requirements, or other legitimate State needs. All specifications shall be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply or service, or procurement from a sole source, unless no other manner of description will suffice.
- 4) Any specifications or standards adopted by business, industry, not-for-profit organization or governmental unit may be adopted by reference.
- 5) A specification may provide alternate descriptions where two or more design, functional, or performance criteria will satisfactorily meet the State's requirements.

## c) Brand Name or Equal Specification

- 1) Brand name or equal specifications may be used when the Procurement Officer determines in writing that:
  - A) no specification for a common or general use specification or qualified products list is available;
  - B) time does not permit the preparation of another form of specification, not including a brand name specification;
  - C) the nature of the product or the nature of the State's requirement makes use of a brand name or equal specification suitable for the procurement; or
  - D) use of a brand name or equal specification is in the State's best interest.
- 2) Brand name or equal specifications shall seek to designate more than one brand as "or equal", and shall further state that substantially equivalent products to those designated will be considered for award.
- 3) Unless the Procurement Officer determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

design, functional, or performance characteristics that are required.

- 4) Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. "Or equal" submissions will not be rejected because of minor differences in design, construction or features that do not affect the suitability of the product for its intended use. Burden of proof that the product is equal is on the bidder.

## d) Brand Name Only Specification

- 1) Determination. A brand name only specification may be used only when the Procurement Officer makes a written determination that only the identified brand name item or items will satisfy the State's needs.
- 2) Use. Brand name alone may be specified in order to fill medical prescription needs, to stock State retail-type operations, to ensure compatibility in existing systems, to preserve warranty, to ensure maintenance, or as authorized in writing by the CPO. An agency may, pursuant to an authorized competitive procedure, select a particular vendor to provide supplies or services for a specified period of time, and for that period the supplier of additional, related and updated supplies and services may be limited to the selected vendor or the brand initially selected.
- 3) Competition. The Procurement Officer shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 1.2025 (Sole Source Procurement) of this Part.

## e) Qualified Products List

- 1) Use. A qualified products list may be developed by the Procurement Officer when testing or examination of the supplies prior to issuance of the solicitation is desirable or necessary in order to best satisfy State requirements.
- 2) Solicitation. When developing a qualified products list, a representative group of potential suppliers shall be solicited in writing to submit products for testing and examination to determine acceptability for inclusion in a qualified products list. Any potential supplier, even though not solicited, may offer its products for consideration during the time allowed for testing and examination.
- 3) Testing and Confidential Data. Inclusion on a qualified products list shall be based on results of tests or examinations conducted in accordance with established requirements. Except as otherwise provided by law, trade secrets, test data, and similar information provided by the supplier will be kept confidential

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

when requested in writing by the supplier.

- f) Proven Products  
The supply or service may be rejected if it has not been offered to other governmental or commercial accounts for at least one year. Specifications may require that the supply or services must have been used in business or industry for a specified period of time to be considered.
- g) State Required Samples  
1) Any required samples must be submitted as instructed in the solicitation with transportation prepaid by the vendor. Each sample must be labeled with the vendor's name, address and a means of matching the sample with the applicable bid or proposal.  
2) Any sample submitted must be representative of the item that would be delivered if a contract were awarded for that item. Samples submitted by a successful vendor will be retained to check continuing quality. Submission of samples will not limit the State's right to require adherence to specifications.  
3) No payment will be made for State Required Samples. Samples not destroyed or consumed by examination or testing will be returned upon request and at vendor's expense. Such request must be made at time of submission with return collect or prepayment provisions and instructions for return accompanying the samples.
- h) Product Demonstration  
Any vendor may request time and space to demonstrate a product or service. Agreement to allow such demonstration will be solely at the State's discretion and will not entitle the bidder to a contract nor shall payment for the demonstration be allowed unless a written contract had been executed prior to the demonstration.
- i) Specifications Prepared by Other Than State Personnel  
1) Specifications may be prepared by other than State personnel, including, but not limited to, consultants, architects, engineers, designers, and other drafters of specifications for public contracts when the Procurement Officer determines that there will be no substantial conflict of interest involved and it is otherwise in the best interest of the State, and provided the Procurement Officer retains the authority to finally approve the specifications. Contracts for the preparation of specifications by other than State personnel shall require the specification writer to adhere to State requirements.  
2) The person who prepared the specifications shall not submit a bid or proposal to meet the procurement need unless the agency head, and not a designee, determines in writing that it would be in the best interest to accept such a bid or proposal from that person. A notice to that effect shall be provided to the CPO and, if approved by the CPO, published in the Bulletin.

SUBPART I: CONTRACT TYPE

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

# Section 1.2055 Types of Contracts EMERGENCY

- a) Scope  
This Section contains descriptions of types of contracts and limitations as to when they should be utilized by the State in its procurements. Types of contracts not mentioned in this Section may also be utilized.
- b) Prohibition of Cost-Plus-a-Percentage-of-Cost Contracting  
The cost-plus-a-percentage-of-cost contract is prohibited by Section 20-55 of the Illinois Procurement Code. This type of contracting may not be used alone or in conjunction with an authorized type of contract. A cost-plus-percentage-of-cost contract is one in which the vendor selects the supply or service on which the vendor's percentage is applied.
- 1) A percentage mark-up from an agreed price list is not a cost-plus-a-percentage-of-cost contract.
- 2) A percentage mark-up from the price of a supply or service selected by the State or another vendor under contract to the State is not a cost-plus-a-percentage-of-cost contract.
- c) Types of Fixed-Price Contracts  
1) Firm Fixed-Price Contract. A firm fixed-priced contract provides a price that is not subject to adjustment because of variations in the vendor's cost of performing the work specified in the contract.
- 2) Fixed-Price Contract with Price Adjustment  
A) A fixed-price contract with price adjustment provides for variation in the contract price under special conditions defined in the contract, other than customary provisions authorizing price adjustments due to modifications to the work. The formula or other basis by which the adjustment in the vendor's price can be made shall be specified in the solicitation and the resulting contract. Adjustment allowed may be upward or downward only, or both upward and downward. Examples of conditions under which adjustments may be provided in fixed-price contracts are:  
i) changes in the vendor's labor agreement rates as applied to an industry or area (such as are frequently found in contracts for the purchase of coal);  
ii) changes due to rapid and substantial price fluctuations that can be related to an accepted index (such as contracts for gasoline, heating oils, and dental gold alloy); and  
iii) in requirement contracts, where a vendor is selected to provide all of the State's needs for the items specified in the contract, when a general price change applicable to all customers occurs, or when a general price change alters the base price (such as a change

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

in a manufacturer's published price list or posted price to which a fixed discount is applied pursuant to the contract to determine the contract price).

- B) If the contract permits unilateral action by the vendor to bring about the condition under which a price increase may occur, the State shall have the right to reject the price increase and terminate without cost the future performance of the contract.

## d) Cost-Reimbursement Contracts

## 1) Determination Prior to Use

- A) A cost-reimbursement type contract may be used only when the Procurement Officer determines in writing that such a contract is likely to be less costly to the State than any other type or that it is impracticable to obtain the items.

- B) Reimbursement of travel expenses in accordance with applicable travel control board regulations is authorized without further determinations.

- 2) Cost Contract. A cost contract provides that the vendor will be reimbursed for allowable costs incurred in performing the contract, but will not receive a fee.

- 3) Cost-Plus-Fixed-Fee Contract. This is a cost-reimbursement type contract that provides for payment to the vendor of an agreed fixed fee in addition to reimbursement of allowable incurred costs. The fee is established at the time of contract award and does not vary if the actual cost of contract performance is greater or less than the initial estimated cost established for such work. Thus, the fee is fixed but not the contract amount because the final contract amount will depend on the allowable costs reimbursed. The fee is subject to adjustment only if the contract is modified to provide for an increase or decrease in the scope of work specified in the contract.

## 4) Cost Incentive Contracts

- A) General. A cost-incentive type of contract provides for the reimbursement to the vendor of allowable costs incurred up to the ceiling amount and establishes a formula whereby the vendor is rewarded for performing at less than target cost (that is, the parties' agreed best estimate of the cost of performing the contract will vary inversely with the actual, allowable costs of performance and consequently is dependent on how effectively the vendor controls cost in the performance of the contract).

- B) Fixed-Price Cost-Incentive Contract. In a fixed-price cost-incentive contract, the parties establish at the outset a target cost, a target profit (that is, the profit that will be paid if the actual cost of performance equals the target cost), a formula that provides a percentage increase or decrease of the target profit depending on whether the actual cost of performance is less than or exceeds the

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

target cost, and a ceiling price. After performance of the contract, the actual cost of performance is arrived at based on the total incurred allowable costs as provided in the contract. The final contract price is then established in accordance with the formula using the actual cost of performance. The final contract price may not exceed the ceiling price. The vendor is obligated to complete performance of the contract, and, if actual costs exceed the ceiling price, the vendor suffers a loss.

- C) Cost-Reimbursement Contract with Cost-Incentive Fee. In a cost-reimbursement contract with cost-incentive fee, the parties establish at the outset a target cost; a target fee; a formula for increase or decrease of fee depending on whether actual cost of performance is less than or exceeds the target cost, with maximum and minimum fee limitations; and a cost ceiling that represents the maximum amount that the State is obligated to reimburse the vendor. The vendor continues performance until the work is complete or costs reach the ceiling specified in the contract, including any modification thereof, whichever first occurs. After performance is complete or costs reach the ceiling, the total incurred, allowable costs reimbursed as provided in the contract are applied to the formula to establish the incentive fee payable to the vendor.

## e) Performance Incentive Contracts

In a performance incentive contract, the parties establish at the outset a pricing basis for the contract, performance goals, and a formula that varies the profit or the fee if the specified performance goals are exceeded or not met. For example, early completion may entitle the vendor to a bonus, while late completion may entitle the State to a price decrease.

## f) Time and Materials Contracts; Labor Hour Contracts

Time and materials contracts provide an agreed basis for payment for materials supplied and labor performed. Labor hour contracts provide only for the payment of labor performed. Such contracts shall, to the extent possible, contain a stated ceiling or an estimate that shall not be exceeded without prior State approval.

## g) Definite Quantity and Indefinite Quantity Contracts

- 1) Definite Quantity. A definite quantity contract is a fixed-price contract that provides for delivery of a specified quantity of supplies or services either at specified times or when ordered.
- 2) Indefinite Quantity. An indefinite quantity contract is a contract for an indefinite amount of supplies or services to be furnished at specified times, or as ordered, that establishes unit prices of a fixed-price type. Generally, an approximate quantity or the best information available as to quantity is stated in the solicitation. The contract may provide a minimum quantity the State is obligated to order and may also provide for



## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

a maximum quantity provision that limits the State's obligation to order.

- 3) Requirements Contracts. A requirements contract is an indefinite quantity contract for supplies or services that specifically obligates the State to order all the actual requirements of designated State agencies during a specified period of time.

#### h) Leases

A lease is a contract for the use of supplies or real property under which title will not pass to the State at any time, except pursuant to an option to purchase.

#### i) Recovery Contracts

Contracts may provide for payment to the vendor of a percentage of the amount the vendor recovers or collects on behalf of the State. The percentage may be fixed or may vary depending on amount of recovery or other factors, and the percentage may be paired with a fixed price or cost reimbursement method.

#### j) Option Provisions

- 1) Contract Provision. When a contract is to contain an option for renewal, extension, or purchase, notice of such provision shall be included in the solicitation. These options may be exercised without taking other procurement action when the option is established for exercise at the State's option.

- 2) Lease with Purchase Option. A purchase option in a lease may be exercised only if the lease containing the purchase option was awarded under competitive sealed bidding or competitive sealed proposals, the leased supply or facility is the only supply or facility that can meet the State's requirements, the purchase option price is less than the small purchase limit or emergency conditions exist.

#### k) State Produced Supplies and Services

Notwithstanding any provision in any contract, supplies or services available from the State's own programs, such as Correctional Industries, may be ordered without violating any contract.

#### l) Extraordinary Quantities

Notwithstanding any provision in any contract, the State reserves the right to take bids separately if a particular quantity requirement arises that exceeds the State's normal needs or ordering requirements.

#### m) Energy Conservation

The CPO may authorize an IFB, RFP or sole source negotiation for energy conservation measures whereby the State would make payment based on utility cost savings. Such contract shall require a clearly defined baseline of energy usage and method of measuring cost savings taking into account at least differing weather conditions, changes in facility, usage and cost of energy.

#### n) Sale of Advertising in State Publications

- 1) Pursuant to Section 20-110 of the Code, a Procurement Officer may sell ads or advertising space in certain State publications.
- 2) These arrangements shall be made pursuant to specifications

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

included in an IFB or, if appropriate, an RFP.

- 3) The advertising in, or authorized use of, State publications shall be appropriate to the type of publication and the program operations of the agency.

- 4) This procedure is authorized in conjunction with, for example, publications that promote tourism, conservation, recycling and the State fairs. The executive head of the agency must concur in writing for the agency to accept advertising from a person the agency regulates.

- 5) Proceeds from the sale of the advertisements shall be paid as stated in the IFB or RFP, including, but not limited to, the following:

- A) to the General Revenue Fund;
- B) to a special fund authorized to receive the proceeds;
- C) as free or additional copies; or
- D) directly to the printer by the advertiser.

## SUBPART J: DURATION OF CONTRACTS

## Section 1.2060 Duration of Contracts - General

## EMERGENCY

#### a) General

- 1) A multi-term contract for a term up to 10 years is authorized when determined by the Procurement Officer to be in the best interest of the State.

- 2) The length of the payment term of bonds issued by or on behalf of a State agency shall be limited as provided in the statute authorizing the issuance of the bonds.

- 3) A software license may have a term longer than 10 years, including for a perpetual term, provided the payment term is limited to no more than 10 years.

- b) The contractual obligation of both parties in each fiscal period succeeding the first is subject to appropriation and availability of funds. The contract shall provide that, in the event that funds are not available for any succeeding fiscal period, the remainder of such contract shall be canceled without penalty to, or further payment being required by, the State. This provision applies to only those contracts that are funded in whole or in part by funds appropriated by the Illinois General Assembly or other governmental entity.

- c) Conditions for Use of Multi-Term Contracts

A multi-term contract may be used when:

- 1) special production of definite quantities or the furnishing of long-term services is required to meet State needs; or
- 2) a multi-term contract will serve the best interests of the State by encouraging effective competition or otherwise promoting economies in State procurement. The following factors are among those relevant to such a determination:

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

- A) firms that are not willing or able to compete because of high start-up costs or capital investment in facility expansion will be encouraged to participate in the competition when they are assured of recouping such costs during the period of contract performance;
- B) lower production costs because of larger quantity of service requirements, and substantial continuity of production or performance over a longer period of time, can be expected to result in lower unit prices;
- C) stabilization of the vendor's work force over a longer period of time may promote economy and consistent quality; or
- D) the cost and burden of contract solicitation, award, and administration of the procurement may be reduced.
- d) Multi-Term Contract Procedure  
The solicitation shall state:
- 1) the proposed term;
  - 2) the amount of supplies or services required for the proposed contract period;
  - 3) the type of pricing requested (e.g., firm for term);
  - 4) how award will be determined.
- e) Renewals
- 1) When the original procurement specifically called for an initial term plus renewals, the renewals may be exercised without further procurement activity, provided the initial term and the exercised renewals may not exceed 10 years, the terms and conditions do not change except as provided in the contract (such as price escalations tied to an index) and the option is reserved solely to the State. A renewal option that requires modification to a material term or condition of the contract shall be treated as a new contract and shall be subject to competitive procurement procedures established by the Code and this Part.
  - 2) When the original procurement was silent as to renewals, the renewal must be procured using one of the methods of source selection authorized by the Code and this Part. This renewal shall start a new term not to exceed 10 years.
  - 3) Where a renewal will result in the total term, counting the initial term and any previous renewals, to exceed 10 years, the renewal must be procured using one of the methods of source selection authorized by the Code and this Part. This renewal will start a new term that shall not exceed 10 years.

## SUBPART K: CONTRACT MATTERS

Section 1.2560 Prevailing Wage  
EMERGENCY

- a) For the following classifications and if competition exists, no bidder

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

will be awarded a contract unless its employees are paid wages and benefits and are working under conditions prevalent in the location where the work is to be performed.

- 1) Public works
- 2) Printing
- 3) Janitorial services, window washing and security guard services having a monthly contract price of \$200 or a yearly price of \$2,000.
- b) Prevailing wage and conditions prevalent means the hourly wage rate, overtime, holiday pay, pension, welfare, premium differential, vacation pay and other benefits received by employees and the environmental conditions under which they work.
- c) Prevailing Wage Rates
  - 1) Prevailing wage rates, benefits and conditions will be those in effect on the first date of the contract, provided that, if the rate changes during the contract term and the amount of change is known before execution of the contract, then the contract rate will vary in like amount.
  - 2) If the change in the collective bargaining agreement cannot be determined in advance, the contract will be changed by the amount of the change in wage rate and all components of price that are dependent on the usage rate, such as payroll taxes, worker's compensation insurance, vacation, sick days, and pension, provided that profit shall not increase due to prevailing wage increases. The using agency shall have the option to cancel the contract if the new price is unacceptable.
  - 3) If the initial prevailing wage, etc., cannot be determined prior to execution, contracts may be entered into and will remain valid for the stated term.
  - d) If a collective bargaining agreement is in effect governing the type of printing, janitorial, window washing or security guard service sought, that agreement will define minimum wages, benefits and conditions that must be paid in order for a bidder to be considered responsible.
  - e) For public works, location means the county where the physical work upon public works is performed, except that if there is not available in the county a sufficient number of competent skilled laborers, workers and mechanics to construct the public works efficiently and properly, "locality" includes any other county nearest the one in which the work or construction is to be performed and from which such persons may be obtained in sufficient numbers to perform the work.
  - f) For printing contracts, location means one of the following areas:
    - 1) Cook County;
    - 2) Boone, Bureau, Carroll, Champaign, DeKalb, DeWitt, DuPage, Ford, Fulton, Grundy, Hancock, Henderson, Henry, Iroquois, Jo Daviess, Kane, Kankakee, Kendall, Knox, Lake, LaSalle, Lee, Livingston, Logan, Marshall, Mason, McDonough, McHenry, McLean, Mercer, Ogle, Peoria, Piatt, Putnam, Rock Island, Schuyler, Stark, Stephenson,

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

Tazewell, Vermillion, Warren, Whiteside, Will, Winnebago, and Woodford counties;

- 3) Adams, Alexander, Bond, Brown, Calhoun, Cass, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Franklin, Gallatin, Greene, Hamilton, Hardin, Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Macon, Macoupin, Madison, Marion, Massac, Menard, Monroe, Montgomery, Morgan, Moultrie, Perry, Pike, Pope, Pulaski, Randolph, Richland, Saline, Sangamon, Scott, Shelby, St. Clair, Union, Wabash, Washington, Wayne, White, and Williamson counties.

- 4) Where the printing is performed in a plant outside the jurisdiction of this State, it shall be deemed produced in the Illinois locality in which delivery of the printing ordered is required to be made. Where such printing is required to be delivered to more than one Illinois locality, such printing shall be deemed produced in the Illinois locality to which the largest dollar volume of printing under the contract is to be delivered.

- g) For janitorial services, window washing and security guard services, location means the county in which the work is to be performed.
- h) Prevailing wages, benefits and conditions will be determined by the Illinois Department of Labor.

### Section 1.2570 Equal Employment Opportunity; Affirmative Action EMERGENCY

- a) Public Contracts. Every party to a public contract and every eligible bidder shall:

- 1) Refrain from unlawful discrimination and discrimination based on citizenship status in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination;
- 2) Comply with the procedures and requirements of the Department of Human Right's (DHR) regulations concerning equal employment opportunities and affirmative action;
- 3) Provide such information, with respect to its employees and applicants for employment, and assistance as DHR may reasonably request;
- 4) Have written sexual harassment policies that shall include, at a minimum, the following information:
  - A) the illegality of sexual harassment;
  - B) the definition of sexual harassment under State law;
  - C) a description of sexual harassment, utilizing examples;
  - D) the vendor's internal complaint process, including penalties;
  - E) the legal recourse, investigative and complaint process available through DHR and the Human Rights Commission;
  - F) directions on how to contact DHR and the Commission;
  - G) protection against retaliation as provided by Section 6-101

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

of the Illinois Human Rights Act (IHRA) [775 ILCS 5]. A copy of the policies shall be provided to the Department of Human Rights upon request.

- b) Section 7-105A of the IHRA authorizes the Department of Human Rights to promulgate policies, rules and regulations to implement the provisions of the IHRA applicable to eligible bidders and public contractors. DHR has promulgated rules, 44 Ill. Adm. Code 750, that establish public contractor and eligible bidder duties, obligations, and reporting requirements. These rules require that certain employers register with DHR in order to be eligible for the award of certain public contracts (44 Ill. Adm. Code 750-Appendix A).

## SUBPART L: CONTRACT PRICING

### Section 1.2800 All Costs Included EMERGENCY

The IFB or RFP and any resulting contract should define whether prices cover transportation, transit insurance, delivery, installation, taxes, and any other costs.

### SUBPART M: CONSTRUCTION AND CONSTRUCTION RELATED PROFESSIONAL SERVICES

### Section 1.3005 Construction and Construction Related Professional Services EMERGENCY

Construction and construction-related services are procured by the CPOs for the Illinois Department of Transportation and the Capital Development Board under rules promulgated by those CPOs. This Part does not apply to those procurements except as may be specifically adopted by those CPOs in their rules. Rules promulgated by these CPOs may be found in:

- a) 44 Ill. Adm. Code, Subtitle B, Chapter IX (CPO - Department of Transportation);
- b) 44 Ill. Adm. Code, Subtitle B, Chapter XII (CPO - Capital Development Board).

## SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

### Section 1.4005 Real Property Leases and Capital Improvement Leases EMERGENCY

Real property leases and capital improvement leases are subject to the requirements of this Part and those in 44 Ill. Adm. Code 5000. In the event of a conflict, 44 Ill. Adm. Code 5000 shall prevail.

## SUBPART O: PREFERENCES



## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

**Section 1.4505 Procurement Preferences  
EMERGENCY**

The procurement preferences identified in Article 45 of the Code must be considered in developing procurement documents, conducting evaluations and drafting contracts.

**Section 1.4510 Resident Bidder Preference  
EMERGENCY**

a) "Illinois resident vendor" as used in this Section means a person authorized to transact business in this State and having a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract was first advertised or announced, including a foreign corporation duly authorized to transact business in this State that has a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract is first advertised or announced.

b) In breaking a tie, an Illinois resident vendor shall be given the award.

c) The CPO shall maintain a list of states with in-state preference that shall be consulted in all procurements involving out-of-state vendors.

**Section 1.4530 Correctional Industries  
EMERGENCY**

a) The CPO shall make available to all SPOs a listing of the supplies or services available from the Department of Corrections and shall identify those that must be purchased from Corrections.

b) Those items that must be purchased from Corrections may not be procured from any other source without the express written authorization of the CPO.

c) Procurement Officers are authorized to procure from Corrections without seeking competition or giving public notice, but must inform the CPO of all such purchases.

**Section 1.4535 Sheltered Workshops for the Disabled  
EMERGENCY**

a) Use of Sheltered Workshop

The Procurement Officer may determine to contract with a sheltered workshop on the list maintained by the CPO, and may do so without notice or competition.

b) Conditions for Use

The CPO shall, in consultation with the State Use Committee created by the Code (Section 45-35), determine which articles, materials,

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

services, food stuffs and supplies that are produced or manufactured by persons with disabilities in State use sheltered workshops shall be given preference by purchasing agencies procuring those items. The CPO shall develop and distribute to the various purchasing and using agencies procedures for implementing this Section.

c) Sheltered Workshop List

The CPO shall maintain a list of all qualified sheltered workshops and shall provide to State agencies that list and the supplies and services each qualified sheltered workshop provides.

d) Pricing Approval

1) While notice and competition is not required prior to contracting with a sheltered workshop, prices must be reasonable. Whether a price is reasonable will be determined based upon current market prices, historical prices, prices received by other State agencies for similar supplies or services, the policy of the Code to promote procurements from sheltered workshops, and other such relevant factors.

2) The State Use Committee, established under Section 45-35 of the Code, must approve contracts for reasonableness of price if:

A) the supply or service would ordinarily be subject to competitive sealed bidding or competitive sealed proposals methods of source selection; or

B) the supply or service is bid and the sheltered workshop is selected even though not the lowest responsible bidder.

3) State Use Committee approval is not required if:

A) the contract does not exceed the bid limit set in Section 1.2020 of this Part and no bidding was conducted; or

B) the contract is let to the sheltered workshop under a competitive procedure.

4) When Committee approval is required, it will be given or denied in an expeditious manner so as not to disrupt procurement activities. Consideration will be at regularly scheduled meetings or through special telephone meetings conducted between regular meetings.

**Section 1.4540 Gas Mileage  
EMERGENCY**

a) Passenger automobile specifications shall require compliance with minimum gas mileage requirements established in Section 45-40 of the Code. Passenger automobiles must achieve at least the minimum average fuel economy in miles per gallon imposed upon manufacturers of vehicles under Title V of the Motor Vehicle Information and Cost Savings Act.

b) Passenger automobiles that do not meet the minimum gas mileage requirements may not be procured unless and until the SPO makes a written determination that a non-compliant automobile is necessary to carry out the function of the agency, the SPO's determination is

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

signed by the executive head of the procuring agency and the signed determination is reviewed and approved by the CPO.

c) The CPO may require use of a uniform form or format for the SPO's determination.

d) In response to the SPO's determination, the CPO may suggest a more economical alternative to the agency head. If such a suggestion is made, the agency head must state in writing why the alternate vehicle will not allow the agency to carry out its functions. If the agency head confirms need for the non-compliant passenger automobile, that vehicle may be procured. Except in the case of a covert vehicle, notice that a non-compliant passenger automobile is being purchased will be placed in the Bulletin along with the reasons for such a decision.

e) Passenger automobile does not include station wagons, vans, four-wheel drive vehicles, emergency vehicles, or police or fire vehicles.

#### Section 1.4545 Small Business EMERGENCY

a) Set-Aside

The CPO may determine categories of supplies or service procurements that will be set aside for small businesses located in Illinois. The set-aside designation may be made for current and future procurements of a specific supply, service or construction, or for a class of like supplies, services or construction. A set-aside designation may last indefinitely or for a stated period of time.

b) Small Business List

The CPO will maintain a list of responsible vendors that meet the criteria of small business. The CPO will periodically inform each purchasing agency of those vendors on the list and the supplies and services that each provides. A business that fits the definition of small on the day of bid or proposal opening will be considered small for the duration of the contract.

c) Required Use

If a Procurement Officer wishes to make a procurement covered by a set-aside designation, the solicitation must note responses are limited to those from responsible small businesses. Bids or proposals received from large businesses will be rejected as nonresponsive.

d) Withdrawal of Set-Aside

If the Procurement Officer determines that acceptance of the best bid or proposal will result in the payment of an unreasonable price, the Procurement Officer shall reject all bids or proposals and withdraw the designation of small business set-aside for the procurement in question. When a small business set-aside is withdrawn, notification shall be published in the Illinois Procurement Bulletin with an explanation. After withdrawal of the small business set-aside, the procurement shall be conducted in accordance with the limitations of

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

the Code and this Part.

e) Criteria for Small Business

Unless the CPO provides a definition for a particular procurement that reflects industrial characteristics, a small business is one:

- 1) Independently owned and operated.
- 2) Not dominant in its field of operations. This means the business does not exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining dominance, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.
- 3) With annual sales for most recently ended fiscal year no greater than:
  - A) \$7,500,000 for wholesale business;
  - B) \$3,000,000 for construction business; or
  - C) \$1,500,000 for retail business.
- 4) With no more than 250 employees if a manufacturing business.
  - A) A manufacturing business shall calculate how many people it employs by determining its average full-time equivalent employment, based on the number of persons employed on a full-time, part-time, temporary or other basis, for its most recently ended fiscal year.
  - B) If a manufacturing business has been in existence for less than a full fiscal year, its average employment should be calculated for the period through one month prior to the bid or proposal due date.
- 5) If both a wholesaler and a retailer, the combined wholesale and retail annual sales for its most recently completed fiscal year may not exceed \$9,000,000. The retail component may not exceed \$1,500,000 and the wholesale component may not exceed \$7,500,000.
- 6) When computing the size status of a vendor, the number of employees and annual sales and receipts, as applicable, of the vendor and all affiliates shall be included. Concerns are affiliates when either one directly or indirectly controls or has the power to control the other, or when a third party or parties controls or has the power to control both. In determining whether concerns are independently owned and operated and whether affiliation exists, consideration shall be given to all appropriate factors, including use of common facilities, common ownership and management and contractual arrangements. However, a franchise relationship shall not affect small business status if the franchise has the right to profit commensurate with ownership and bears the risk of loss or failure.

f) Vendors desiring to submit bids or proposals or to otherwise contract for items set aside for small businesses shall submit information

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

verifying that the vendor qualifies as a small business under the Code. The CPO may establish procedures for verifying such information.

#### Section 1.4570 Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities EMERGENCY

- a) Introduction  
The Business Enterprise Act for Minorities, Females, and Persons with Disabilities [30 ILCS 575] (Act) sets a goal (minimum 12%) for contracting with businesses owned or controlled by minorities, females, or persons with disabilities.
- b) Goal  
Each State agency subject to that Act shall establish a goal that at least 12% of the dollar value of State contracts be awarded to minority and female-owned businesses. Of that 12%, five shall be for female-owned businesses, two for businesses owned by persons with disabilities and not-for-profit agencies for the disabled, and the remaining five for other minority-owned businesses, unless these percentages are modified by the Council created under the Act.
- c) Upon direction of the CPO, and pursuant to direction from the Council, the procuring agencies may establish set-asides and other such preferences for vendors certified under that Act.
- d) Certification  
Certification procedures are set forth in rules governing the Business Enterprise Act (44 Ill. Adm. Code 10).
- e) List of Certified Businesses
  - 1) The CPO shall maintain a list of businesses that have been certified. This list shall be made available to all procuring agencies.
  - 2) The names and addresses of certified vendors shall be made available to the public.

- f) Professional and Artistic Contract Reporting  
Professional and artistic contracts, which must be reported to the Business Enterprise Council pursuant to Section 6a of the Business Enterprise Act, shall be reported as follows:

- 1) Notice that an agency intends to enter into a professional and artistic contract shall be given to the Council. Notice may be mailed, hand delivered or given by fax, and must be submitted on the same date that the potential vendor is contacted. If the contract is advertised in the Bulletin, reporting to the Council is not required.
- 2) The notice shall include the agency name and address; contact person; contract reference number; date bid or proposal was first available; return dates and opening dates; term of the contract; services to be provided; special requirements; and dollar value. Notice should be given on the form available from the CPO.

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

## SUBPART P: ETHICS

#### Section 1.5013 Conflicts of Interest EMERGENCY

- a) This Section does not apply to those elected to local government, including school districts, nor does it apply to those elected to Federal offices in this State. This Section does apply to those elected to an office of Illinois State government.
- b) An individual has a direct pecuniary interest in a contract when the individual is owed a payment or otherwise receives a direct financial benefit in conjunction with performance of a contract, including finders fees and commission payments.
- c) Distributable income means the income of a company after payment of all expenses, including employee salary and bonus, and retained earnings, which is distributed to those entitled to receive a share of such income.
- d) This Section does not apply to contracts with licensed professionals provided such contracts are competitively bid. For purposes of this Section, "bid" means procured pursuant to the competitive procedures identified in Subpart E of this Part.

#### Section 1.5015 Negotiations for Future Employment EMERGENCY

- a) *It is unlawful for any person employed in or on a continual contractual relationship with any of the offices or agencies of State government to participate in contract negotiations on behalf of that office or agency with any firm, partnership, association, or corporation with whom that person has a contract for future employment or is negotiating concerning possible future employment.* [30 ILCS 500/50-15(a)]
- b) An individual who performs services pursuant to a contract and who meets the requirements of an "employee" as opposed to an independent contractor is in a "continued contractual relationship" from the effective date of the contract until such time as the contract is terminated.
- c) An individual who performs services pursuant to a contract and who meets the requirements of an "independent contractor" as opposed to an "employee" is in a "continual contracted relationship" if the contract term is indefinite, is automatically renewed, is renewable at the individual's option, is renewable unless the State must act to terminate, or has a definite term of at least three months.

#### Section 1.5020 Exemptions EMERGENCY

If the Procurement Officer finds a conflict of interest under Section 50-13 of



## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

the Code with the vendor selected for award or contract negotiations, the Procurement Officer shall forward to the CPO the name of the vendor and a description of the proposed contract and of the potential conflict, and shall state why an exemption should be granted. The CPO shall submit the files to the Board of Ethics for its determination and with the approval of the CPO, the Board of Ethics may exempt named individuals from the prohibitions of Section 50-13 of the Code when, in its judgment, the public interest in having the individual in the service of the State outweighs the public policy evidenced in that Section. [30 ILCS 500/50-20]

### Section 1.5030 Revolving Door EMERGENCY

Effective January 15, 1999, CPOs, SPOs, and Associate Procurement Officers (APOs) shall identify in writing their designees whose job or position descriptions are at least 51% directly related to State procurement. They shall maintain that information for a period of at least two years following the end or revocation of the designation.

### Section 1.5035 Disclosure of Financial Interests and Potential Conflicts of Interest EMERGENCY

- a) Distributable or distributive income means the income of a company after expenses, including employee salaries and bonuses, and retained earnings, which is distributed to those entitled to receive a share of such income.
- b) Personal services shall be any contract for services subject to this Code, including, by way of example, professional and artistic services, repair services, cleaning and guard services.
- c) "Competitively bid" means a contract let pursuant to Section 20-10 of the Code.
- d) "Subject to federal 10K reporting" means subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934. "10K disclosure" means a report required under Section 13 or 15(d) of the Securities Exchange Act of 1934.
- e) Once a disclosure is made in relation to a particular contract, the disclosure need not be repeated if the contract is amended.
- f) 10K Disclosures
  - 1) Any vendor subject to federal 10K reporting requirements may submit its 10K to the State in satisfaction of the disclosure requirement of Section 50-35(b) of the Code provided the vendor also identifies the specific sections or parts in the 10K disclosure where the State may find information, if any, pertaining to those who have an ownership interest or an interest in the distributable income of the vendor or its parent, or other information that the vendor knows or reasonably should know identifies a potential conflict of interest with the State. If

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

the financial interest or conflict of interest information requested by the State is not in the 10K, but is in a document referenced in the 10K, or in a document that may be submitted to the SEC in conjunction with or in lieu of the 10K, then that additional documentation shall be provided as well.

- 2) 10K disclosures are available for public review. Any potential conflict of interest identified by the public and brought to the attention of the CPO or SPO shall be investigated.
- 3) In circumstances where a vendor may submit a 10K disclosure in lieu of the specific disclosure requirements of the Code and for purposes of the Procurement Officer's duty to consider any conflict or potential conflict of interest that may exist, but that is not subject to specific disclosure requirements of the Code and this Part, and that is not personally known by the Procurement Officer, "publicly known or reasonably available to the public" shall consist of information identified by the vendor in the 10K disclosure and any information disclosed pursuant to public review of the 10K disclosure.

## SUBPART Q: CONCESSIONS

### Section 1.5310 Concessions EMERGENCY

- a) A concession is an authorization allowing use of State property for the purpose of making profit, including future profit.
- b) An authorization to allow use of State property by not-for-profit entities is not a concession or lease of State property under Article 53 of the Code.
- c) Proposed concessions, leases or other uses of State property must be coordinated with the State Property Control Act [30 ILCS 605] and rules implementing that Act.

## SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

### Section 1.5510 Complaints Against Vendors EMERGENCY

- a) The purpose of this Section is to document performance of vendors.
- b) Whenever a vendor fails to meet contract requirements, including but not limited to failure to deliver on time or meet specifications, the using agency shall take appropriate action to initiate a complaint to the vendor.
- c) For relatively minor infractions, the using agency may initiate contact by telephone or in person. If not resolved by this action, a written complaint shall be made.
- d) For other infractions, the using agency shall send a written complaint to the vendor detailing the problem. For complaints regarding

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

contracts established by the CPO, a form available from the CPO shall be used for processing complaints.

- e) A copy of all written complaints and the resolution or status shall be filed with the CPO.

**Section 1.5520 Suspension  
EMERGENCY**

- a) Application  
This Section applies to all debarments or suspensions of vendors from consideration for award of contracts under the Code.
- b) The CPO may suspend a vendor from doing business with the State, with one or more agencies, or for specific types of supplies or services. A suspension may be issued upon a showing the vendor violated the Code or this Part, or failed to conform to specifications or terms of delivery.
- c) When the CPO finds cause exists for suspension, a notice of suspension, including a copy of such determination, shall be sent to the suspended vendor. Bids or proposals will not be solicited from the suspended vendor, and, if received, will not be considered during the period of suspension.
- d) A vendor may be suspended for a period of time commensurate with the seriousness of the offense, but for no more than five years. The suspension will be effective seven calendar days after receipt of notice unless an objection is filed. If an objection is filed, suspension would not become effective until the evaluation of the objection is completed.
- e) The CPO may debar a vendor. Debarment is the permanent suspension of a vendor from doing business with the State. A debarment may only take place in those instances involving bribery or attempted bribery of a State of Illinois officer or employee, or as otherwise allowed or required by law. Bids or proposals received from the debarred vendor will not be considered.
- f) The CPO shall maintain a master list of all suspensions and debarments. The master list will retain information concerning suspensions and debarments as public records. Such records will be maintained for a period of at least three years following the end of the suspension or debarment. Such public information may be considered in determining responsibility.

**Section 1.5530 Resolution of Contract Controversies  
EMERGENCY**

- a) Authority to Resolve Controversies  
The Procurement Officer shall have authority to resolve controversies, but the executive head of the purchasing agency may set limits on such authority.
- b) Authority of Using Agency

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

The using agency has the authority to accept delivery of supplies or services in accordance with contract requirements as satisfactory adjustment of a complaint.

- c) Substitution of Terms/Price Reduction

If the vendor proposes to make an adjustment by:

- 1) substituting an alternative specification, or  
2) reducing the contract price by a certain amount to compensate for some failure to provide full performance under the contract,

such proposal must be referred to and approved by the Procurement Officer, but not a designee.

- d) Cancellation for Breach of Contract

In any of the following cases the Procurement Officer shall have the right to terminate or rescind any contract entered into under this Part:

- 1) In the event the successful bidder fails to furnish a satisfactory performance bond within the time specified.
- 2) In the event the vendor fails to make delivery at the place or within the time specified in the contract or as ordered by the purchasing agency.
- 3) In the event any supplies or services provided under the contract are rejected (for not meeting specification, not conforming to sample, or not being in good condition when delivered) and are not promptly replaced by the vendor. If there are repeated rejections of the vendor's supplies or services, this shall be grounds for termination or rescission, even though the vendor offers to replace the supplies or services promptly.
- 4) In the event the vendor is guilty of misrepresentation (for example, misbranding of food or drugs) in connection with another contract for the sale of supplies or services to the State such that the vendor cannot reasonably be depended upon to fulfill his obligations as a responsible vendor under any of his contracts with the State.
- 5) In the event the vendor should be adjudged bankrupt; enter into receivership or make a general assignment for the benefit of creditors due to insolvency; disregard laws, rules, or instructions of the Procurement Officer; or act in violation of any provision of the contract; or if the contract conflicts with any statutory or constitutional provision of the State of Illinois or of the United States.
- 6) In the event of any other breach of contract or other unlawful act by the vendor.
- e) Cancellation for Fraud, Collusion, Illegality, Etc.  
The State may cancel any contract it established if there is sufficient evidence to show that:
- 1) The contract was obtained by fraud, collusion, conspiracy, or other unlawful means; or
- 2) The contract conflicts with any statutory provision of the State of Illinois or of the United States.



## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

- f) Withholding Money to Compensate State for Damages  
If a contract is terminated or rescinded under this Section, the State may deduct from whatever is owed the vendor on that or any other contract an amount sufficient to compensate the State of Illinois for any damages suffered by it because of the vendor's breach of contract or other unlawful act on the vendor's part on which the cancellation is based.
- g) Damages  
The damages for which the State may be compensated as provided in this Section or by a suit on the vendor's performance bond or by other legal remedy shall include, but are not limited to, the following:
- 1) the additional cost of supplies or services bought elsewhere;
  - 2) cost of repeating the procurement procedure;
  - 3) any expenses incurred because of delay in receipt of supplies or services; and
  - 4) any other damages caused by the vendor's breach of contract or unlawful act.

### Section 1.5540 Violation of Law or Rule EMERGENCY

- a) Determination that Solicitation or Award Violates Law  
If the CPO or the SPO finds that the solicitation or proposed award is in violation of statute or rule, the CPO or the SPO may cancel the solicitation or proposed award, or make modifications to correct the violation, if such correction may be legally accomplished.
- b) Determination that Contract Violates the Code or this Part  
Contracts based on awards or solicitations that were in violation of law shall be terminated at no cost to the State unless statute or rule allows the State to modify, ratify or take other corrective action.
- c) Effect of Declaring a Contract Null and Void  
In all cases in which a contract is voided, the State shall endeavor to return those supplies delivered under the contract that have not been used or distributed. No further payments shall be made under the contract.

### Section 1.5550 Protests EMERGENCY

- a) Protest Resolution by the Procurement Officer  
An actual or prospective bidder, offeror, or vendor that may be aggrieved in connection with a procurement may file a protest on any phase of solicitation or award, including but not limited to specifications preparation, bid solicitation, or award.
- b) Complaint to Procurement Officer  
Complainants should seek resolution of their complaints initially with the office that issued the solicitation. Such complaints may be made verbally or in writing.

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

## c) Filing of Protest

- 1) Protests shall be made in writing to the Procurement Officer, if applicable, and shall be filed within 14 days after the protester knows or should have known of the facts giving rise to the protest. A protest is considered filed when physically received by the Procurement Officer. Protests filed after the 14 day period shall not be considered. In regard to a protest regarding specifications, the protest must be received within 14 days after the date the solicitation was issued, and in any event must be received by the State at the designated address before the date for opening of bids or proposals.
  - 2) To expedite handling of protests, the envelope should be labeled "Protest". The written protest shall include as a minimum the following:
    - A) the name and address of the protester;
    - B) appropriate identification of the procurement, and, if a contract has been awarded, its number;
    - C) a statement of reasons for the protest; and
    - D) supporting exhibits, evidence, or documents to substantiate any claims unless not available within the filing time, in which case the expected availability date shall be indicated.
- d) Requested Information; Time for Filing  
Any additional information requested by the State shall be submitted within the time periods established by the requesting source in order to expedite consideration of the protest. Failure of the protesting party to comply expeditiously with a request for information by the Procurement Officer may result in resolution of the protest without consideration of that information.
- e) Stay of Procurements During Protest  
When a protest has been timely filed and before an award has been made, the Procurement Officer shall make no award of the contract until the protest has been resolved. If timely received but after award, the award shall be revoked without penalty and no award made until the protest has been resolved. In either case the Procurement Officer may make the award or reinstate the award upon a determination that the needs of the State require an immediate award and performance under the contract.
- f) Decision by the Procurement Officer  
A decision on a protest shall be made by the Procurement Officer as expeditiously as possible after receiving all relevant, requested information. If a protest is sustained, the available remedies include, but are not limited to, reversal of award and cancellation or revision of the solicitation.
- g) Effect of Judicial or Administrative Proceedings  
If an action concerning the protest has commenced in court, the Procurement Officer shall not act on the protest, but shall refer the protest to the Attorney General. This Section shall not apply when a



## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

court requests, expects, or otherwise expresses interest in the decision of the Procurement Officer.

## SUBPART S: SUPPLY MANAGEMENT AND DISPOSITIONS

### Section 1.6010 Supply Management and Dispositions EMERGENCY

- a) Inventory Responsibility  
Each State agency shall have general supervision of and accountability for tangible personal property and other supplies under its control subject to the requirements of the State Property Control Act [30 ILCS 605] and rules implementing that Act.
- b) Supply Management  
State agencies shall order supplies on a schedule and in quantities so as to maintain no more than a 12 month supply in inventory. Supplies shall be ordered so as to maintain the minimum inventory commensurate with ability to meet agency needs. This 12-month inventory restriction does not apply to lifesaving medications, mechanical spare parts, or when a greater quantity is needed to meet minimum order quantities.
- c) Inventory  
State agencies shall periodically inventory all warehouses and similar storage areas under their jurisdiction.
- d) Report of Inventory  
The CPO may require that agencies note on purchase requests compliance with the 12 month restriction on inventory.
- e) Transfer of Excess Supplies  
Insofar as feasible, practical and in accordance with other applicable law, the SPOs shall transfer excess supplies to the Department of Central Management Services Surplus Property Division for disposition under the State Property Control Act [30 ILCS 605].

## SUBPART T: GOVERNMENTAL JOINT PURCHASING

### Section 1.6500 General EMERGENCY

In an effort to make the procurement process more efficient, State and other governmental units (including not-for-profit entities authorized by law to participate in joint purchasing) may agree to utilize each others' procurement contracts. This authority is governed by this Subpart and the Governmental Joint Purchasing Act [30 ILCS 525]. Only the CPO may enter into contracts under the Act when the State is a party to the contract.

### Section 1.6510 No Agency Relationship EMERGENCY

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

In any joint procurement situation, the governmental unit must issue its own purchase order, accept its own deliveries and make its own payments. The State of Illinois shall have no obligation to the vendor for payment of orders placed by other governmental units.

### Section 1.6520 Obligations of Participating Governmental Units EMERGENCY

If governmental units determine to use contracts established by the CPO, they must:

- a) provide to the CPO a copy of the ordinance or resolution passed by the governing body of the governmental unit giving authority to make purchases from contracts issued by the State of Illinois;
- b) make all purchases under the State contracts for public use only and specifically prohibit personal use or consumption by any individual, public employee or official;
- c) make payment to the vendor within 30 days after receipt of supplies or services;
- d) place orders with the supplier directly using their own purchase order forms. A copy of the purchase order must also be sent to the CPO. This copy will be used for statistical purposes and will serve as notice that the governmental unit has complied with the bid action;
- e) inspect all items immediately for compliance with the contract specifications and report to the CPO any failure of suppliers to comply with contract requirements; and
- f) attempt to resolve disputes with the vendor before involving the CPO.

### Section 1.6530 Centralized Contracts - Estimated Quantities EMERGENCY

Certain centralized contracts for estimated quantities contain a price extension clause permitting governmental units to utilize the contract by placing an order directly with the vendor. Governmental units using these contracts must comply with the following provisions or risk being removed from active participation in this program:

- a) the State purchase order or contract reference number as indicated in the "Notice of Awards" must be shown;
- b) the purchase order or contract reference number must contain a complete description of the item; item number; brand and/or model number; unit of measure; unit price; and price extension;
- c) place orders for at least the minimum quantities shown on the "Notice of Awards" (Vendors are not required to deviate from the terms of their contract.); and
- d) read the "Notice of Awards" carefully to ensure understanding of special provisions, particularly as it may pertain to catalogs and price lists.

### Section 1.6535 Centralized Contracts - Definite Quantities

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

**EMERGENCY**

a) Certain items, such as foods and highway salt, are purchased under definite quantity contracts. Governmental units interested in such items, or other items not covered under the estimated quantity contracts, must contact the CPO for instruction on use of those contracts.

b) If purchase requests are received after the Invitation for Bids has been issued, if the quantities are too small for centralized purchase, or do not lend themselves to joint purchasing, the State will return the purchase request to the governmental unit.

c) Governmental units must consider the following factors prior to filing purchase requests for definite quantities:

- 1) The State issues Invitation for Bids and makes awards based on the requirements covered by purchase requests. The State does not take bids to obtain estimated prices. Withdrawal from participation in the contract after solicitation for bids has been made by the State will not be permitted except in very unusual cases.
- 2) Any governmental unit having an existing contract shall complete that contract before participating in joint purchasing for that item.
- 3) Overlapping time periods must be identified in the joint purchase requisition so there will be no misunderstanding as to whether or not existing commitments will be honored or as to the date a future commitment will begin.
- 4) It should be clearly understood that the governmental unit has delegated its authority to purchase items covered by purchase requests and that the resulting award will be made in exactly the same manner as if the purchase requests had been submitted by a State agency.
- 5) Specifications established in the Invitation for Bids shall be accepted.
- 6) Location of the vendor will not be a factor in determining the award, except as may be established by State law.
- 7) The governmental units are required to purchase items awarded from the successful bidder.

## SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

**Section 1.7000 Severability  
EMERGENCY**

If any provision of this Part or any application thereof is held invalid, such invalidity shall not affect other provisions or applications of this Part that can be given effect without such invalid provision or application.

**Section 1.7010 Government Furnished Property**

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

**EMERGENCY**

If the State provides any property to the vendor in furtherance of the contract, such property shall remain the property of the State but may be consumed by the vendor if necessary to complete the contract. Vendor will issue a receipt for the property and will be responsible for its safekeeping and for return of unused property to the State.

**Section 1.7015 Inspections****EMERGENCY**

## a) Inspection of Plant or Site

The State may enter a vendor's or subcontractor's plant or place of business to:

- 1) inspect supplies or services for acceptance by the State pursuant to the terms of a contract;
- 2) audit the books and records of any vendor or subcontractor pursuant to Section 1.7020 (Records and Audits) of this Part;
- 3) investigate an action to debar or suspend a person from consideration for award of contracts pursuant to the Code;
- 4) determine whether the standards of responsibility have been met or are capable of being met;
- 5) determine if the contract is being performed in accordance with its terms; and
- 6) accomplish any other purpose permitted by law.

## b) Inspection and Testing of Supplies and Services

1) Solicitation and Contractual Provisions. State contracts may provide that the State may inspect supplies and services at the vendor's or subcontractor's facility and perform tests to determine whether the supplies or services conform to solicitation requirements, or, after award, to contract requirements, and are therefore acceptable. Such inspections and tests shall be conducted in accordance with the terms of the solicitation and contract.

2) Procedures for Trial Use and Testing. The Procurement Officers may establish operational procedures governing the testing and trial use of equipment, material, and other supplies by any State agency, and the application of resulting information and data to specifications or procurements.

## c) Conduct of Inspections

- 1) Inspectors. Inspections or tests shall be performed so as not to unduly delay the work of the vendor or subcontractor. No inspector other than the Procurement Officer may change any provision of the specifications or the contract without written authorization of the Procurement Officer. The presence or absence of an inspector shall not relieve the vendor or subcontractor from any requirements of the contract.
- 2) Location. When an inspection is made in the plant or place of

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

business of a vendor or subcontractor, such vendor or subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.

- 3) Time. Inspection or testing of supplies and services performed at the plant or place of business of any vendor or subcontractor shall be performed at reasonable times.

- d) Inspection of Construction Projects  
On-site inspection of construction shall be performed in accordance with the terms of the contract.

**Section 1.7020 Records and Audits****EMERGENCY**

- a) Retention of Books and Records

Books and records that relate to performance of a State contract, including subcontracts, and that support amounts charged to the State, shall be maintained:

- 1) by a vendor, for three years from the date of final payment under the prime contract;
- 2) by a subcontractor, for at least three years from the date of final payment under the subcontract; and
- 3) by a vendor and subcontractor for such longer period of time as is necessary to complete ongoing or announced audits.

- b) Contract Audit

- 1) Types of Contracts Audited. The type of contract under which books and records should be audited is that in which price is based on costs or is subject to adjustment based on costs, or that in which auditing would be appropriate to assure satisfactory performance, such as a time and materials contract.

- 2) Situations in which an audit may be warranted include but are not limited to when a question arises in connection with:

- A) the financial condition, integrity, and reliability of the vendor or subcontractor;
- B) any prior audit experience;
- C) the adequacy of the vendor's or subcontractor's accounting system;
- D) the number or nature of invoices or reimbursement vouchers submitted by the vendor or subcontractor for payment;
- E) the use of federal assistance funds;
- F) the fluctuation of market prices affecting the contract; or
- G) any other situation in which the Procurement Officer finds that such an audit is necessary for the protection of the State's best interest.

**Section 1.7025 Written Determinations****EMERGENCY**

## DEPARTMENT OF CENTRAL MANAGEMENT SYSTEMS

## NOTICE OF EMERGENCY RULES

- a) Preparation and Execution

When the Code or this Part requires a written determination, the officer required to prepare the determination may delegate its preparation, but the responsibility for and the execution of the determination shall not be delegated.

- b) Content

Each written determination shall set out sufficient facts, circumstances, and reasoning as will substantiate the specific determination that is made.

- c) Obtaining Supporting Information

While an officer is responsible for the execution of the written determination, other State personnel, particularly technical personnel and appropriate personnel in the purchasing agency, are responsible for furnishing to the cognizant official, in an accurate and adequate fashion, the information pertinent to the determination. When requested, such information shall be furnished in writing to the cognizant official who shall have the authority to decide the final form and content of the determination and to resolve any questions or conflicts arising with respect to the determination.

- d) Forms

The CPO is authorized to prescribe methods and operational procedures to be used in preparing written determinations.

- e) Retention

Each written determination shall be filed in the solicitation or contract file to which it applies, shall be retained as part of such file for so long as the file is required to be maintained, and, except as otherwise provided by statute or rule, shall be open to public inspection.

**Section 1.7030 No Waiver of Sovereign Immunity****EMERGENCY**

Nothing in this Part shall be deemed to be a waiver of sovereign immunity.



## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Child Care
- 2) Code Citation: 89 Ill. Adm. Code 50
- 3) Section Numbers:  
50.230 Emergency Action:  
50.235 Emergency Amendment  
50.310 Emergency Amendment
- 4) Statutory Authority: Implementing Article I through IX and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. I through IX and 12-13].

- 5) Effective Date of Amendments: July 1, 1998

- 6) If these emergency amendments are to expire before the end of the 150-day period, please specify the date on which they are to expire: Not applicable

- 7) Date filed in Agency's Principal Office: July 1, 1998

- 8) Reason for Emergency: Currently, 1468 parents are receiving child care services because they were "grandfathered" in on July 1, 1997, due to income level. These individuals will lose eligibility after June 30, 1998, unless a change is made in the Department's child care provisions.

- 9) A Complete Description of the Subject and Issues: These proposed amendments are needed to enable child care services to continue with no interruption. The change is to use gross earned income minus 10%. The Department is also providing child care services to 1325 parents who were grandfathered because they were receiving child care to obtain education. To continue uninterrupted services, this rulemaking allows a limited test program. The 1325 parents, if they are also working 25 hours per week and have not received more than two years of child care due to education, would continue to be eligible to receive child care. This rulemaking also proposes to reduce the co-payment for parents whose child is in care less than 5 hours per day.

- 10) Are there any other amendments pending on this Part? No

- 11) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

- 12) Information and questions regarding these amendments shall be directed to:

Mrs. Susan Warner Weir, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

100 South Grand Avenue East  
3rd Floor, Harris Bldg.  
Springfield, Illinois 62762  
Telephone number: (217) 785-9772  
TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES  
NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER a: GENERAL PROGRAM PROVISIONS  
PART 50  
CHILD CARE

SUBPART A: GENERAL PROVISIONS

Section  
50.101 Incorporation by Reference  
50.110 Participant Rights and Responsibilities  
50.120 Notification of Available Services  
50.130 Child Care Overpayments and Recoveries

SUBPART B: APPLICABILITY

Section  
50.210 Child Care  
50.220 Method of Providing Child Care  
50.230 Child Care Eligibility  
EMERGENCY  
50.235 Income Eligibility Criteria  
EMERGENCY  
50.240 Qualified Provider  
50.250 Additional Service to Secure or Maintain Child Care

SUBPART C: PAYMENT FEES

Section  
50.310 Fees for Child Care Services  
EMERGENCY  
50.320 Maximum Annual Income and Parent Fee by Family Size, Income Level and Number of Children Receiving Care

AUTHORITY: Implementing Articles I through IX and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IX and 12-13].

SOURCE: Emergency rules adopted at 21 Ill. Reg. 9502, effective July 1, 1997, for a maximum of 150 days; adopted at 21 Ill. Reg. 14961, effective November 10, 1997; emergency amendment at 22 Ill. Reg. **12818**, effective July 1, 1998, for a maximum of 150 days.

SUBPART B: APPLICABILITY

Section 50.230 Child Care Eligibility  
EMERGENCY

a) Child care services are restricted to children under age 13 and to

DEPARTMENT OF HUMAN SERVICES  
NOTICE OF EMERGENCY AMENDMENTS

children under age 20 who are under court supervision or have physical or mental incapacities as documented by a statement from a local health provider or other health professional.  
b) Parents and other relatives eligible to receive child care services include:

- 1) Recipients of Temporary Assistance for Needy Families (TANF) under Article IV of the Public Aid Code participating in work and training activities as specified in their personal plans for employment and self-sufficiency who have been approved for child care benefits by the Department and who meet the annual income ceilings in subsection (b)(2) of this Section.
- 2) Working families, including teen parents while they attend school to obtain a high school degree or its equivalent, whose annual incomes do not exceed the following amounts by family size:

| Family Size | Annual Income |
|-------------|---------------|
| 2           | \$17,663      |
| 3           | \$21,819      |
| 4           | \$25,975      |
| 5           | \$30,131      |
| 6           | \$34,288      |
| 7           | \$35,067      |
| 8           | \$35,846      |

- 3) Subject to an annual allocation of \$7.5 million, families ~~Families~~ who do not receive TANF and need ~~are-receiving~~ child care services ~~on July 1, 1997~~ in order to work or attend school (up to and including the acquisition of a bachelor's degree) and whose annual incomes do not exceed the annual income ceilings in subsection (b)(2) of this Section, provided the parent works 25 hours per week in a paying job. Effective October 1, 1999, the parent must work 30 hours per week in a paying job. No parent can receive more than two years of service under this subsection, including any child care received for training under the "grandfather" provision during FY 1998. Child care provided to a teen parent to obtain a high school degree, or its equivalent, does not count against this two year limit. Eligibility for child care under this subsection ceases for any month in which the parent does not work 25 hours per week in a paying job. Effective October 1, 1999, eligibility for child care under this subsection ceases for any month in which the parent does not work 30 hours per week in a paying job. If a parent is claimed as a dependent by another person for federal income tax purposes, that parent is only eligible if his or her income when added to the income of the other person does not exceed the annual income ceiling in subsection (b)(2) of this Section for that family size. Applications to receive child care under this subsection

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

will be denied when the projected annual costs for enrolled participants reaches \$7.5 million. following--amounts--by--family size:

| Family-Size | Annual-income |
|-------------|---------------|
| 2           | \$21,234      |
| 3           | \$26,230      |
| 4           | \$31,266      |
| 5           | \$36,223      |
| 6           | \$41,218      |
| 7           | \$42,155      |
| 8           | \$43,092      |

Such-families-are-eligible-to-receive-these-services-through-June 30--1998--at-which-point-they-must-be-eligible-under-subsection (b)(1)-or-(2)-of-this-section-to-receive-services.

c) All families must be residents of Illinois.

d) Payment for child care services to eligible parents may begin on the first day of the month before the month in which the application is received by the Department or its agents.

e) Eligibility ceases 10 calendar days from the date of the termination notice sent to the parent by the Department or its agents following a determination of ineligibility.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. effective July 1, 1998, for a maximum of 150 days)

**12816**

### Section 50.235 Income Eligibility Criteria EMERGENCY

A family is considered "income eligible" when the combined gross monthly income of all family members is at or below the amounts listed in Section 50.230 for the corresponding family size. In two parent families, both incomes must be combined to determine eligibility.

Eligibility is determined on the basis of monthly gross income. To convert weekly income into monthly income, multiply weekly income by 4.333. To convert bi-weekly income into monthly income, multiply bi-weekly income by 2.1666. To convert twice monthly income into monthly income, multiply twice monthly income by 2.

Documentation must be secured for all income and maintained in the family eligibility file prior to approval for child care payments.

a) Income Included (Non-Exempt)

1) gross money wages and salary minus 10% (before--deductions--are made--for--taxes--bonds--pensions--union--dues--etc--)

Note:--this--would--include--any--money--allowances--received--for

clothing--housing--etc--(as--in--government--wages--

2) net income from farm self-employment;

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

3) net income from non-farm self-employment;  
4) dividends, interest, net rental income and royalties;  
5) pensions and annuities;  
6) alimony;

7) child support received by the family;

8) ongoing monthly adoption assistance payments from DCF;

9) veteran's pensions;

10) unemployment compensation;

11) worker's compensation;

12) public assistance and welfare payments;

13) social security payments for all family members, including SSI and pensions;

14) survivor's benefits, permanent disability payments, and railroad retirement benefits from the federal government.

#### b) Exempt Income

1) per capita payments to or funds held in trust for any individual in satisfaction of the Indian Claims Commission or the Court of Claims;

2) payments made pursuant to the Alaska Native Claims Settlement Act to the extent such payments are exempt from taxation under Section 21(a) of the Act (43 USC 8-5-6- 1620(a));

3) money received from sale of property, such as stocks, bonds, a house, or a car (unless the person was engaged in the business of selling such property, in which case the net proceeds would be counted as income from self-employment);

4) money borrowed, including educational loans to a student who is included in the family unit as authorized in Section 50.210(c);

5) withdrawals of bank deposits;

6) tax refunds, or any Earned Income Tax Credit payments;

7) gifts;

8) lump sum inheritances or insurance payments;

9) capital gains;

10) the value of the coupon allotment or food stamp benefits under the Food Stamp Act of 1977, as amended;

11) the value of United States Department of Agriculture (USDA) donated foods;

12) the value of supplemental food assistance under the Child Nutrition Act of 1966 and the special food service for children under the National School Lunch Act, as amended;

13) any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

14) earnings of a child under age 19 (unless that child is the applicant);

15) grants such as scholarships, obtained and used by a student who is included in the family unit as authorized in Section 50.210(c) under conditions that preclude their use for current living costs;

16) any grant or loan to any undergraduate student for educational



## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

purposes made or insured under any program administered by the Commission of Education under the Higher Education Act of 1965;

17) home produce utilized for household consumption;

18) energy grants or allowances received through the Low-Income Energy Assistance Program authorized by the Home Energy Assistance Act of 1980;

19) any DCFS foster care board payments or clothing allowance;

20) child support paid out of the family's income.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 12816, effective July 1, 1998, for a maximum of 150 days)

## SUBPART C: PAYMENT FEES

**Section 50.310 Fees for Child Care Services**  
EMERGENCY

All parents must share in the cost of child care as illustrated in Section 50.320. If care is for less than 5 hours per day, the parent share is 50% of the amount shown, rounded up to the nearest cent. These parent fees will be explained to parents beginning in July 1997 and will be collected beginning in October 1997.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 12816, effective July 1, 1998, for a maximum of 150 days)

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

1) Heading of the Part: Office of the Governor Procurement Rules

2) Code Citation: 44 Ill. Adm. Code 1500

3) Section Numbers: Emergency Action:

|           |     |
|-----------|-----|
| 1500.01   | New |
| 1500.05   | New |
| 1500.10   | New |
| 1500.15   | New |
| 1500.25   | New |
| 1500.525  | New |
| 1500.1005 | New |
| 1500.1510 | New |
| 1500.1570 | New |
| 1500.1580 | New |
| 1500.2005 | New |
| 1500.2010 | New |
| 1500.2012 | New |
| 1500.2015 | New |
| 1500.2020 | New |
| 1500.2025 | New |
| 1500.2030 | New |
| 1500.2035 | New |
| 1500.2036 | New |
| 1500.2037 | New |
| 1500.2038 | New |
| 1500.2040 | New |
| 1500.2043 | New |
| 1500.2045 | New |
| 1500.2047 | New |
| 1500.2050 | New |
| 1500.2055 | New |
| 1500.2060 | New |
| 1500.2560 | New |
| 1500.2570 | New |
| 1500.2800 | New |
| 1500.4505 | New |
| 1500.4510 | New |
| 1500.4530 | New |
| 1500.4535 | New |
| 1500.4540 | New |
| 1500.4570 | New |
| 1500.5013 | New |
| 1500.5015 | New |
| 1500.5020 | New |
| 1500.5030 | New |
| 1500.5035 | New |
| 1500.5510 | New |

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

1500.5520 New  
1500.5530 New  
1500.5540 New  
1500.5550 New  
1500.6500 New  
1500.6510 New  
1500.6520 New  
1500.7000 New  
1500.7010 New  
1500.7020 New  
1500.7025 New  
1500.7030 New

4) Statutory Authority: 30 ILCS 500 and 30 ILCS 525

5) Effective Date of Rule: July 1, 1998

6) If this emergency rule is to expire before end of the 150-day period,  
please specify the date on which it is to expire: Not applicable

7) Date Filed in Agency's Principal Office: June 30, 1998

8) Reason for Emergency: There was not sufficient time to develop proposed rules that could be processed through normal rulemaking and have the rules effective July 1, 1998.

9) A Complete Description of the Subjects and Issues Involved: Section 1-30 of the Illinois Procurement Code requires that constitutional officers procure their needs in a manner substantially in accordance with the requirements of the Code, and that such officers promulgate rules no less restrictive than the requirements of the Code to govern procurements.

This rulemaking prescribes standard procurement rules for the Office of the Governor in accordance with the requirements of the Illinois Procurement Code.

10) Are there any proposed amendments to this Part pending? No

11) Statement of Statewide Policy Objectives: Proposed rules contain a Section for joint purchase of supplies and services that would affect local government.

12) Information and questions regarding this amendment shall be directed to:

David Wood  
108 State House  
Springfield, IL 62706  
217/782-4520

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

The full text of the Emergency Rules begins on the next page:

OFFICE OF THE GOVERNOR  
NOTICE OF EMERGENCY RULES

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT  
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES  
CHAPTER XXII: OFFICE OF THE GOVERNOR

PART 1500  
OFFICE OF THE GOVERNOR PROCUREMENT RULES

SUBPART A: GENERAL

Section  
1500.01 Title  
EMERGENCY  
1500.05 Policy  
EMERGENCY  
1500.10 Application  
EMERGENCY  
1500.15 Definition of Terms Used in This Part  
EMERGENCY  
1500.25 Property Rights  
EMERGENCY

SUBPART B: PROCUREMENT RULES

Section  
1500.525 Rules  
EMERGENCY

SUBPART C: PROCUREMENT AUTHORITY

Section  
1500.1005 Exercise of Procurement Authority  
EMERGENCY

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section  
1500.1510 Illinois Procurement Bulletin  
EMERGENCY  
1500.1570 Error in Notice  
EMERGENCY  
1500.1580 Direct Solicitation  
EMERGENCY

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section  
1500.2005 General Provisions

OFFICE OF THE GOVERNOR  
NOTICE OF EMERGENCY RULES

EMERGENCY  
1500.2010 Competitive Sealed Bidding  
EMERGENCY  
1500.2012 Multi-Step Sealed Bidding  
EMERGENCY  
1500.2015 Competitive Sealed Proposals  
EMERGENCY  
1500.2020 Small Purchases  
EMERGENCY  
1500.2025 Sole Economically Feasible Source Procurement  
EMERGENCY  
1500.2030 Emergency Procurements  
EMERGENCY  
1500.2035 Competitive Selection Procedures for Professional and Artistic Services  
EMERGENCY  
1500.2036 Other Methods of Source Selection  
EMERGENCY  
1500.2037 Tie Bids and Proposals  
EMERGENCY  
1500.2038 Mistakes  
EMERGENCY  
1500.2040 Cancellation of Solicitations; Rejection of Bids or Proposals  
EMERGENCY

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section  
1500.2043 Suppliers  
EMERGENCY  
1500.2045 Responsibility  
EMERGENCY

SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

Section  
1500.2047 Security Requirements  
EMERGENCY

SUBPART H: SPECIFICATIONS

Section  
1500.2050 Specifications  
EMERGENCY

SUBPART I: CONTRACT TYPE

Section  
1500.2055 Types of Contracts



## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

## SUBPART J: DURATION OF CONTRACTS

## EMERGENCY

## Section

Duration of Contracts - General

1500.2060  
EMERGENCY

## SUBPART K: CONTRACT MATTERS

## Section

Prevailing Wage

1500.2560  
EMERGENCY

Equal Employment Opportunity; Affirmative Action

1500.2570  
EMERGENCY

## SUBPART L: CONTRACT PRICING

## Section

All Costs Included

1500.2800  
EMERGENCY

## SUBPART M: PREFERENCES

## Section

Procurement Preferences

1500.4505  
EMERGENCY

Resident Bidder Preference

1500.4510  
EMERGENCY

Correctional Industries

1500.4530  
EMERGENCY

Sheltered Workshops for the Disabled

1500.4535  
EMERGENCY

Small Business

1500.4540  
EMERGENCYContracting with Businesses Owned and Controlled by Minorities,  
Females and Persons with Disabilities1500.4570  
EMERGENCY

## SUBPART N: ETHICS

## Section

Conflicts of Interest

1500.5013  
EMERGENCY

Negotiations for Future Employment

1500.5015  
EMERGENCY

Exemptions

1500.5020  
EMERGENCY

Revolving Door

1500.5030

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

EMERGENCY  
1500.5035  
Disclosure of Financial Interests and Potential Conflicts of Interest

## EMERGENCY

## SUBPART O: COMPLAINTS, PROTESTS AND REMEDIES

## Section

Complaints Against Vendors

1500.5510  
EMERGENCY

Suspension

1500.5520  
EMERGENCY

Resolution of Contract Controversies

1500.5530  
EMERGENCY

Violation of Law or Rule

1500.5540  
EMERGENCY

Protests

1500.5550  
EMERGENCY

## SUBPART P: GOVERNMENTAL JOINT PURCHASING

## Section

General

1500.6500  
EMERGENCY

No Agency Relationship

1500.6510  
EMERGENCY

Obligations of Participating Governmental Units

1500.6520  
EMERGENCY

## SUBPART Q: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

## Section

Severability

1500.7000  
EMERGENCY

Government Furnished Property

1500.7010  
EMERGENCY

Inspections

1500.7015  
EMERGENCY

Records and Audits

1500.7020  
EMERGENCY

Written Determinations

1500.7025  
EMERGENCY

No Waiver of Sovereign Immunity

1500.7030  
EMERGENCY

AUTHORITY: The Illinois Procurement Code [30 ILCS 500] (see P.A. 90-572).

SOURCE: Adopted by emergency rulemaking at 22 Ill. Reg. 12823.

OFFICE OF THE GOVERNOR  
NOTICE OF EMERGENCY RULES

effective July 1, 1998, for a maximum 150 days.

SUBPART A: GENERAL

**Section 1500.01 Title  
EMERGENCY**

This Part may be cited as the Office of the Governor's Procurement Rules.

**Section 1500.05 Policy  
EMERGENCY**

All procurements by the Office of the Governor (OG) shall be accomplished in the most economical, expeditious and commercially reasonable manner that is in accordance with statute, this Part and other applicable rules.

**Section 1500.10 Application  
EMERGENCY**

- a) Articles 1, 15, 20, 25, 35, 40, 45, 50, and 53 of the Illinois Procurement Code [30 ILCS 525] (the Code) will be referenced herein as though applicable to the OG, and all procurements of goods or services conducted by the OG or by CMS on behalf of the OG shall be substantially in accordance with those provisions of the Code, except to the extent otherwise provided in this Part.
- b) For the purposes of the Code and this Part, any reference to Chief Procurement Officer (CPO) means the Governor or his designee except that for the purpose of issuing State debt, the Director of the Bureau of the Budget shall be the CPO. The Governor may appoint one or more Chief Procurement Officer(s).
- c) The Code and this Part apply to those procurements for which the vendors were first solicited on or after July 1, 1998.
- d) Procurements for which vendors were first solicited on or before June 30, 1998, shall be conducted pursuant to legal requirements in effect at the time of the solicitation. The terms and conditions and the rights and obligations under contracts resulting from such procurements shall not be impaired.
- e) A solicitation occurs on or before June 30, 1998, as follows:
  - 1) When advertising was required in the Official State Newspaper, the first advertisement must run no later than June 30, 1998.
  - 2) When advertising was not required:
    - A) if the procurement was advertised, even though advertising was not required, the first advertisement must have run no later than June 30, 1998;
    - B) if the procurement was by direct solicitation by mail, the solicitation must have been postmarked or placed in the control of a private carrier no later than June 30, 1998;
    - C) if the procurement was by direct solicitation by fax, the

OFFICE OF THE GOVERNOR  
NOTICE OF EMERGENCY RULES

fax must show a transmission date no later than June 30, 1998;

- D) if the procurement was solicited in-person or by telephone, the solicitation must have occurred no later than June 30, 1998, and the State officer or employee who made the solicitation must state in writing when the procurement was discussed and must name the party with whom the discussion took place.
- 3) In all circumstances, the solicitations must be for the procurement of particular needs. A general discussion to determine if there is any interest on the part of a State agency in the supplies or services of a vendor or vendors, or on the part of a vendor or vendors in providing the supplies or services, is not considered a solicitation.
- f) The Code and this Part do not apply to:
  - 1) contracts between the State and its political subdivisions or other governments, or between State governmental bodies except as specifically provided in this Code (for purposes of this subsection (d)(1), "governmental bodies" includes the State universities and their governing boards, community colleges and their governing boards and school districts);
  - 2) grants;
  - 3) hiring of an individual as employee and not as an independent contractor, whether pursuant to an employment code or policy or by contract directly with that individual;
  - 4) collective bargaining contracts;
  - 5) purchase of real estate; or
  - 6) contracts necessary to prepare for anticipated litigation, enforcement actions, or investigations, provided that the chief legal counsel to the Governor shall give his or her prior approval. [30 ILCS 500/1-10] Anticipated litigation is that which the OG may prosecute or defend before a court or administrative body and actions necessary to prepare for and conduct the effective legal prosecution or defense of litigation, including, but not limited to, contracting for expert witnesses.

**Section 1500.15 Definition of Terms Used in This Part  
EMERGENCY**

As used throughout this Part, terms defined in the Illinois Procurement Code shall have the same meaning as in the Code and as further defined below, and each term listed in this Section shall have the meaning set forth below unless its use clearly requires a different meaning. Terms may be defined in particular Sections for use in that Section.

"Bid" - The response to an Invitation for Bids.

"Bidder" - Any person who submits a bid.

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

"Brand Name or Equal Specification" - A specification that uses one or more manufacturer's names or catalogue numbers to describe the standard of quality, performance, and other characteristics needed to meet State requirements, and that allows the submission of equivalent products.

"Brand Name Specification" - A specification limited to one or more items by manufacturers' names or catalogue numbers.

"Code" - The Illinois Procurement Code [30 ILCS 500].

"Concession" - The right or a lease to engage in a certain activity for profit on the lessor's premises (e.g., a refreshment or parking concession).

"Contract" - A contract may be in written or oral form. The term contract as used in the Code and this Part includes any agreement or lease that requires the payment of State funds by the OG in exchange for goods or services but it does not include bonds issued by or on behalf of any State agency or contracts relating to bonds issued by or on behalf of a State agency when the contractor or vendor is neither selected nor paid by the State agency.

"Contractor" or "Vendor" - The terms contractor and vendor are used interchangeably for purposes of the Code and this Part.

"Day" - Calendar day. In computing any period of time, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a State holiday, in which event the period shall run to the end of the next business day.

"Items" - Anything that may be procured under this Code.

"Invitation for Bids" or "IFB" - The process by which a purchasing agency requests information from bidders, including all documents, whether attached or incorporated by reference, used for soliciting bids. [30 ILCS 500/1-15.45]

"Procurement Officer" - The Chief Procurement Officer (CPO) or his or her designee who conducts the particular procurement.

"Proposal" - The response to a Request for Proposals.

"Qualified Products List" - An approved list of supplies described by model or catalog numbers that, prior to competitive solicitation, the State has determined will meet the applicable specification requirements.

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

"Request for Proposals" or "RFP" - The process by which a purchasing agency requests information from offerors, including all documents, whether attached or incorporated by reference, used for soliciting proposals. [30 ILCS 500/1-15.75]

"Responsive Bidder" - A person who has submitted a bid that conforms in all material respects to the invitation for bids. [30 ILCS 500/1-85]

"Responsible Offeror" - A person who has submitted an offer that conforms in all material respects to the Request for Proposals.

"Service" - The furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports or supplies that are incidental to the required performance. [30 ILCS 500/1-15.90]

"Specification" - Any description of the physical, functional, or performance characteristics, or of the nature of a supply or service. A specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply or service item for delivery. Unless the context requires otherwise, the terms "specification" and "purchase description" are used interchangeably throughout this Part.

"Specification for a Common or General Use Item" - A specification that has been developed and approved for repeated use in procurements.

"State agency" - Includes all boards, commissions, agencies, institutions, authorities, and bodies politic and corporate of the State, created by or in accordance with the constitution or statute, of the executive branch of State government and does include colleges, universities, and institutions under the jurisdiction of the governing boards of the University of Illinois, Southern Illinois University, Illinois State University, Eastern Illinois University, Northern Illinois University, Western Illinois University, Chicago State University, Governors State University, Northeastern Illinois University, and the Board of Higher Education. However, this term does not apply to public employee retirement systems or investment boards that are subject to fiduciary duties imposed by the Illinois Pension Code or to the University of Illinois Foundation. "State agency" does not include units of local government, school districts, community colleges under the Public Community College Act, and the Illinois Comprehensive Health Insurance Board. [30 ILCS 500/1-15.100]

"Supplies" - All personal property, including but not limited to equipment, materials, printing, and insurance, and the financing of those supplies. [30 ILCS 500/1-15.110]



## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

"Unsolicited Offer" - Any offer other than one submitted in response to a solicitation.

**Section 1500.25 Property Rights  
EMERGENCY**

Receipt of an Invitation for Bids or other procurement document, or submission of any response thereto, or other offer, confers no right to receive an award or contract, nor does it obligate the State in any manner.

## SUBPART B: PROCUREMENT RULES

**Section 1500.525 Rules  
EMERGENCY**

Procurement under the jurisdiction of the OG shall be conducted substantially in accordance with the Code and in accordance with this Part except as provided in this Section. The OG may in the same manner as State agencies under the jurisdiction of the CPO of CMS, without soliciting independent bids, proposals, or responses, procure goods and services from Master Contracts or other centralized purchasing arrangements established by CMS from vendors selected by CMS in accordance with a competitive selection process established by CMS under the Code.

## SUBPART C: PROCUREMENT AUTHORITY

**Section 1500.1005 Exercise of Procurement Authority  
EMERGENCY**

- a) The CPO shall ensure that all procurements of the OG are in accordance with the Code and this Part and are in the best interests of the State. For procurements other than for issuance of State debt, the CPO may request that CMS conduct such procurements on behalf of the OG. Such procurements conducted by CMS on behalf of the OG shall be carried out in accordance with the Code and Rules issued by CMS thereunder. Additionally, the CPO may delegate to the CPO of CMS the authority to exercise on behalf of the CPO or any Purchasing Officer any right, responsibility, duty or obligation vested in the CPO or any Purchasing Officer thereunder.
- b) The CPO may appoint one or more employees under his direction and supervision to serve as a SPO.

## SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

**Section 1500.1510 Illinois Procurement Bulletin  
EMERGENCY**

- a) Notice of any procurement action, by or on behalf of the OG, which

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

would be required by the Code to be published in the Illinois Procurement Bulletin if the OG were a "State Agency" will be forwarded to CMS for inclusion in the appropriate volume of the Bulletin. The Bulletin may be supplemented at the discretion of the OG with publication elsewhere, including in the Official State Newspaper selected by CMS.

- c) The notice shall contain at least the following information:
  - 1) the name of the procuring agency (and using agency, if different);
  - 2) a brief purchase description;
  - 3) a procurement reference number, if used;
  - 4) the date the procurement is first offered;
  - 5) the date, time, and location for making submissions;
  - 6) the method of source selection;
  - 7) the name of the Procurement Officer in charge; and
  - 8) instructions on how to obtain detailed information.
- d) Notice of each contract awarded that was subject of a notice in subsection (b) above shall be placed in the Bulletin. This notice shall contain at least the following information:
  - 1) the information published in subsection (b) above;
  - 2) the name of the vendor selected for award;
  - 3) the contract price;
  - 4) the number of unsuccessful vendors; and
  - 5) other disclosures required to be published in the Bulletin.
- e) The following information regarding emergency procurements shall be published in the Bulletin within 14 days after date of performance under the emergency contract:
  - 1) name of the procuring agency (and using agency, if different);
  - 2) name of the vendor selected for award;
  - 3) brief description of what the vendor will do or provide;
  - 4) total price (if only an estimate is known, it shall be published, but a subsequent notice repeating all required information shall be published when the final amount is known);
  - 5) reasons for using the emergency method of source selection; and
  - 6) name of the Procurement Officer in charge.
- f) The following information in regard to sole source procurements shall be published in the Bulletin at least 14 days prior to entering into the contract with the designated sole source vendor:
  - 1) name of the procuring agency (or using agency, if different);
  - 2) name of the vendor;
  - 3) brief description of what the vendor will do or provide; and
  - 4) name of the Procurement Officer in charge.

**Section 1500.1570 Error in Notice  
EMERGENCY**

When a required publication contains an error, the error may be corrected by a single notice published in the Bulletin.

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

**Section 1500.1580 Direct Solicitation  
EMERGENCY**

In addition to giving notice in the Bulletin, OG may directly contact prospective vendors by providing copies of Invitations for Bids, Requests for Proposals, or other procurement information. Direct solicitation may be oral or in writing, but care should be taken to ensure that all vendors solicited in this manner receive the same information as provided to others.

**SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION****Section 1500.2005 General Provisions  
EMERGENCY**

- a) Late Bids or Proposals, Late Withdrawals and Late Modifications
  - 1) Definition. Any bid or proposal received after the time and date for receipt, or at other than the specified location even if on time, is late. Any withdrawal or modification of a bid or proposal received after the time and date set for opening of bids or proposals is late. If received at other than the specified location, the submission is late.
  - 2) Treatment. No late bid or proposal, late modification, or late withdrawal will be considered unless the CPO, and not a designee, determines it would have been timely but for the action or inaction of State personnel directly serving the procurement activity (e.g., providing the wrong address).
  - 3) Records. Records shall be made and, in accordance with the State Records Act [5 ILCS 160], kept for each late bid or proposal, late modification, or late withdrawal.
  - 4) Other Submissions. Any other submission that has a time or date deadline shall be treated in the same manner as a late bid.
- b) Extension of Time
  - 1) The CPO may, prior to the date or time for submitting or modifying a bid or proposal, extend the date or time for the convenience of the State.
  - 2) After opening bids or proposals, the CPO may request bidders or offerors to extend the time during which the State may accept the bids or proposals, provided that, with regard to bids, no other change is permitted.
- c) Electronic and Facsimile Submissions
  - 1) The Invitation for Bids or Request for Proposals may state that electronic and facsimile machine submissions will be considered if they are received at the designated office by the time and date set for receipt. Any required attachments will be submitted as stated in the IFB or RFP.
  - 2) Electronic submissions authorized by specific language in the IFB or RFP will be opened in accordance with electronic security measures in effect at the purchasing agency at the time of

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

opening. Unless the electronic submission procedures provide for a secure receipt, vendor assumes risk of premature disclosure due to submission in unsealed form.

- 3) Fax submissions authorized by specific language in the IFB or RFP will be placed in a sealed container upon receipt and opened as other submissions. Vendor assumes risk of premature disclosure due to submission in unsealed form.
- d) Intent to Submit
 

The Invitation for Bids or the Request for Proposals may require that vendors submit, by a certain time and date, a notice of their intent to submit a bid or proposal in response to the IFB or RFP. Bids and proposals submitted without complying with the notice of intent requirement may be rejected.
- e) Only One Bid or Proposal Received
 

If only one bid or proposal is received, an award may be made to the single bidder or offeror if the Procurement Officer finds that the price submitted is fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond, or there is not adequate time for resolicitation. Otherwise:

  - 1) new bids or offers may be solicited, including under sole source (Section 1500.2025) or emergency (Section 1500.2030) procedures; or
  - 2) the procurement may be canceled.
- f) Alternate or Multiple Bids or Proposals
  - 1) Alternate bids or proposals may be accepted if:
    - A) permitted by the solicitation and in accordance with instructions in the solicitation; or
    - B) only one vendor responded, in which case the alternate submission may be evaluated and treated in accordance with Section 1500.2025 (Sole Source Procurement) of this Part; or
    - C) the low bidder, who has met all requirements of the solicitation, has provided a lower cost alternative that meets all of the material requirements of the specifications.
  - 2) Multiple bids or proposals may be accepted if:
    - A) permitted by the solicitation and submitted in accordance with instructions in the solicitation; or
    - B) only one vendor responded, then, one or more of the submissions may be evaluated, provided that, in the case of bids, only the lowest cost bid meeting specifications may be considered.
  - 3) If a vendor clearly indicates a primary submission among alternate or multiple bids or proposals, then that primary submission shall be considered for award as though it were the only bid or proposal submitted by the vendor.
- g) Multiple Items
 

An Invitation for Bids or Request for Proposals may call for pricing of multiple items of similar or related type with award based on

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

individual line item, group total of certain items, or grand total of all items.

- h) "All or None" Bids or Proposals  
All or none bids or proposals may be accepted if the evaluation shows an all or none award to be the lowest cost or best value of those submitted.
- i) Conditioning Bids or Proposals Upon Other Awards Any bid or proposal that is conditioned upon receiving award of the particular contract being solicited and one or more other State contracts shall:
  - 1) be rejected unless the vendor removes the condition; or
  - 2) be evaluated and award made to that vendor if the vendor is also independently evaluated as the winner of the other IFBs or RFPS provided the agency need not delay procurement actions to accommodate the vendor's all or none condition.
- j) Unsolicited Offers
  - 1) Processing of Unsolicited Offers. The CPO may consider unsolicited offers.
  - 2) Conditions for Consideration. An unsolicited offer must be in writing and must be sufficiently detailed to allow a judgment to be made concerning the potential utility of the offer to the State.
  - 3) Award. An award may not be made based on an unsolicited offer in place of the notice and competition requirements of the Code and this Part except if that unsolicited offer meets the requirements for a small (Section 1500.2020), sole source (Section 1500.2025), or emergency (Section 1500.2030) procurement.
- k) Clarification of Bids and Proposals  
The CPO may request that a vendor clarify its bid or proposal as a part of the evaluation process. A vendor shall not be allowed to materially change its bid or proposal in response to a request for clarification. A clarification is not an opportunity to make changes or for submission of best and finals as authorized elsewhere in this Part.
- l) Extension of Time on Indefinite Quantity Contracts  
The time of performance of an indefinite quantity contract may be extended upon agreement of the parties, provided the extension is for 90 days or less and the Procurement Officer determines in writing that it is not practical to award another contract at the time of such extension.
- m) Increase in Quantity on Definite Quantity Contracts
  - 1) The quantity that may be ordered from a definite quantity contract without additional notice and competition may be increased by up to 20% provided the CPO determines that separate bidding for the additional quantity is not likely to achieve lower pricing. A particular procurement may specify a different percentage.
  - 2) The quantity may be increased by any percentage provided the dollar value of the increase does not exceed the applicable small

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

- n) Subsequent Purchase Request  
If, within 30 days after making an award to a particular vendor pursuant to a competitive sealed bid by or on behalf of the OG, the CPO receives another purchase request for the same item and for the same or lesser quantity, the CPO may contract with that vendor on the same terms and conditions, including price, without additional notice and competition, if such contract is acceptable to the vendor.
- o) Assignment, Novation or Change of Name
  - 1) Assignment. No State contract is transferable, or otherwise assignable, without the written consent of the CPO, provided, however, that a vendor may assign money receivable under a contract after due notice to the State. Assignment may require the execution of a contract with the assignee and in such cases the assignee must meet all requirements for contracting with the State.
  - 2) Recognition of a Successor in Interest; Novation. When in the best interest of the State, a successor in interest may be recognized in a novation agreement in which the transferor and the transferee agree that:
    - A) the transferee assumes all of the transferor's obligations;
    - B) the transferee meets all requirements for contracting with the State;
    - C) the transferor waives all rights under the contract as against the State; and
    - D) unless the transferor guarantees performance of the contract by the transferee, the transferee shall, if required by the State, furnish a satisfactory performance bond.
  - 3) Change of Name. A vendor may submit a written request to change the name in which it holds a contract with the State. The name change shall not alter any of the terms and conditions of the contract or the obligations of the vendor.
  - 4) Reports. All change of name or novation agreements under this subsection (o) shall be reported to the CPO within 30 days after the date the agreement becomes effective so that the bid list may be updated.
- p) Contracting for Installment Purchase Payments, Including Interest  
Contracts may provide for installment purchase payments, including interest charges, over a period of time. The interest rate may not exceed that established by law, including the Bond Authorization Act [30 ILCS 305].
- q) Use of Source Selection Method that is Not Required  
If the OG uses a method of source selection that it is not, by law, required to use (e.g., use of a competitive sealed bid for a small purchase), it is not bound to strict compliance with the Code and rules governing the method of source selection used.
- r) Vendor Signature  
A bid or proposal submitted unsigned will be evaluated if the vendor



## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

submits a written signature acceptable to the Procurement Officer within the time specified by that officer.

- s) Stringing or planning procurements to avoid use of competitive procedures (stringing) is prohibited.
  - t) Confidential Data
- Vendors must clearly identify any information that is exempt from the disclosure requirement of the Illinois Freedom of Information Act [5 ILCS 140] and must request special handling of that material.

### Section 1500.2010 Competitive Sealed Bidding EMERGENCY

- a) Application
 

Competitive sealed bidding is the required method of source selection except as allowed by the Code and this Part. The provisions of this Section apply to every procurement required to be conducted by competitive sealed bidding.
- b) The Invitation for Bids
  - 1) Use. The Invitation for Bids is used to initiate a competitive sealed bid procurement.
  - 2) Content. The Invitation for Bids shall include, at a minimum, the following:
    - A) instructions and information to bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the address of the office to which bids are to be delivered, and the maximum time for bid acceptance;
    - B) the purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description; and
    - C) the contract terms and conditions, including warranty and bonding or other security requirements, as applicable.
  - 3) Incorporation by Reference. The Invitation for Bids may incorporate documents by reference provided that the Invitation for Bids specifies where such documents can be obtained.
- c) Bidding Time
 

Bidding time is the period of time between the date of notice or distribution of the Invitation for Bids and the time and date set for receipt of bids. In each case, bidding time will be set to provide bidders a reasonable time to prepare their bids. A minimum of 14 days shall be provided unless a shorter time is authorized by the Code or this Part.
- d) Bidder Submissions
  - 1) Bid Form. The Invitation for Bids may include a form or format for submitting bids. If a form or format is specified, vendor shall submit bids as instructed.
  - 2) Bid Samples and Descriptive Literature

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

- A) Bid samples or descriptive literature may be required when it is necessary to evaluate required characteristics of the items bid.
- B) Unsolicited bid samples or descriptive literature are submitted at the bidder's risk, may not be examined or tested, will not be deemed to vary any of the provisions of the Invitation for Bids, and may not be utilized by the vendor to contest a decision or understanding with the OG.

## e) Public Notice

- 1) Publication. Every procurement for supplies and services in excess of \$10,000 that must be procured using an Invitation for Bids shall be publicized in the Illinois Procurement Bulletin (see Section 1500.1510).
- 2) Public Availability. A copy of the Invitation for Bids shall be made available for public inspection.
- 3) Distribution. Invitations for Bids or Notices of the Availability of Invitations for Bids may be mailed or otherwise furnished to a sufficient number of bidders for the purpose of securing competition. Notices of Availability shall, at a minimum, indicate where Invitations for Bids may be obtained; generally describe what is needed; and indicate the due date for bids. Where appropriate, the Procurement Officer may require payment of a fee or a deposit for supplying the Invitation for Bids.
- f) Pre-Bid Conference
 

A pre-bid conference may be conducted to enhance understanding of the procurement requirements. The pre-bid conference shall be announced as a part of the Invitation for Bids notice. The conference may be designated as "attendance mandatory" or "attendance optional". The conference should be held long enough after the Invitation for Bids has been issued to allow bidders to become familiar with it, but sufficiently before bid opening to allow consideration of the conference results in preparing their bids. Nothing stated at the pre-bid conference shall change the Invitation for Bids unless a change is made by written modification to the Invitation for Bids. Amendments shall be supplied to all those prospective bidders known to have received an Invitation for Bids. If the conference is mandatory, the amendment shall be supplied to attendees only.
- g) Amendments to Invitations for Bids
  - 1) Form. Amendments to Invitations for Bids shall be clearly identified and shall reference the portion of the IFB it amends.
  - 2) Distribution. Amendments shall be made available to all prospective bidders known to have received an Invitation for Bids.
  - 3) Timeliness. Amendments shall be made available within a reasonable time to allow prospective bidders to consider them in preparing their bids. If the time and date set for receipt of bids will not permit such preparation, the amendment shall extend

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

the response time. If necessary, the response time may be extended by fax or telephone and confirmed in the amendment.

#### h) Pre-Opening Modification or Withdrawal of Bids

1) Procedure. Bids may be modified or withdrawn by written notice received in the office designated in the Invitation for Bids prior to the time and date set for bid opening.

2) Disposition of Bid Security. If a bid is withdrawn in accordance with this Section, the bid security, if any, shall be returned to the bidder.

3) Records. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.

#### i) Receipt, Opening and Recording of Bids

1) Receipt. Upon its receipt, each bid and modification shall be time-stamped but not opened and shall be stored in a secure place until the time and date set for bid opening. If a bid is opened in error, the file shall so state.

#### 2) Opening and Recording

A) Bids and modifications shall be opened publicly at the time, date, and place designated in the Invitation for Bids. Opening shall be witnessed by a State employee or any other person present, but the person opening bids shall not serve as witness. The name of each bidder, the bid price, and such other information as is deemed appropriate by the Procurement Officer, shall be recorded and the name of each bidder read aloud or otherwise made available. The name of the witness shall also be recorded at the opening.

B) The winning bid shall be available for public inspection after award, along with the record of each unsuccessful bid.

#### j) Bid Evaluation and Award

1) General. The contract is to be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids, except as permitted in the Code and this Part. The Invitation for Bids shall set forth the requirements and criteria that will be used to determine the lowest responsive bidder. No bid shall be evaluated for any requirements or criteria that are not disclosed in the Invitation for Bids.

2) Responsibility. Responsibility of prospective vendors is covered by Section 1500.2045 (Responsibility) of this Part.

3) Responsiveness. A bid must conform in all material respects to the Invitation for Bids.

A) Product or Service Acceptability. The Invitation for Bids shall set forth any evaluation criteria to be used in determining product or service acceptability. It may require the submission of bid samples, descriptive literature, technical data, references, licenses, or other information or material. It may also provide for

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

accomplishing any of the following prior to award:

i) inspection or testing of a product or service prior to award for such characteristics as quality or workmanship;

ii) examination of such elements as appearance, finish, taste, or feel;

iii) other examinations to determine whether it conforms with any other purchase description requirements.

B) The acceptability evaluation is not conducted for the purpose of determining whether one bidder's product or service capability is superior to another, but only to determine that a bidder's offering is acceptable as set forth in the Invitation for Bids. Any bidder's offering that does not meet the acceptability requirements shall be rejected.

4) Determination of Lowest Bidder. Following determination of product or service acceptability as set forth in this subsection (j), bids will be evaluated to determine which bidder offers the lowest cost to the State in accordance with the evaluation criteria set forth in the Invitation for Bids. Only objectively measurable criteria that are set forth in the Invitation for Bids shall be applied in determining the lowest bidder. Examples of such criteria include, but are not limited to, transportation cost and ownership or life-cycle cost formulas. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible such evaluation factors shall be reasonable estimates based upon information the State has available concerning future use and shall provide for the equitable treatment of all bids. Pricing for optional supplies or services, or for renewal terms, may be considered, particularly when the pricing for such items or terms is unbalanced when compared to other pricing in the bid.

5) Price Negotiation. Negotiations are permitted with the low bidder to obtain a lower price for the item bid.

k) Documentation of Award

Following award, a record showing the successful bidder shall be made a part of the procurement file.

1) Award to Other Than Low Bidder

1) The Procurement Officer may award to other than the lowest responsible and responsive bidder upon a written determination that award to another bidder is in the State's best interest. The name of the bidder selected, pricing, and the reasons for selecting this bidder instead of the low bidder must be published in the Bulletin.

2) This action may be appropriate when the difference in quality or speed of delivery is so great as compared to the difference in price, and considering the needs of the agency, that a best value award is justified. However, if the difference in price is

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

significant, the Procurement Officer may not utilize this provision.

## m) Publicizing Award

The successful bidder shall be notified of award and such notification may be in the form of a letter, purchase order or other clear communication. In procurements over the small purchase limit set in Section 1500.2020 (Small Purchases) of this Part, notice of award shall be published in the Bulletin.

### Section 1500.2012 Multi-Step Sealed Bidding EMERGENCY

a) Definition. Multi-step sealed bidding is a two-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated by the State, and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase have their price bids considered.

b) Conditions for Use. The multi-step sealed bidding method may be used when it is not practical to prepare initially a definitive purchase description that will be suitable to permit an award based on price. Multi-step sealed bidding may be used when it is considered desirable:

- 1) to invite and evaluate possible diverse technical offers to determine their acceptability to fulfill the purchase description requirements; and
- 2) to conduct discussions for the purposes of facilitating understanding of the technical offer and purchase description requirements and, where appropriate, obtain supplemental information, permit amendments of technical offers, or amend the purchase description.

c) Pre-Bid Conference in Multi-Step Sealed Bidding Prior to the submission or evaluation of unpriced technical offers, a pre-bid conference as contemplated by Section 1500.2010(f) (Pre-Bid Conference) may be conducted by the Procurement Officer.

d) Procedure for Phase One of Multi-Step Sealed Bidding

- 1) Form. Multi-step sealed bidding shall be initiated by the issuance of an Invitation for Bids in the form required by Section 1500.2010 (Competitive Sealed Bidding), except as hereinafter provided. In addition to the requirements set forth in Section 1500.2010, the multi-step Invitation for Bids shall state:

- A) that unpriced technical offers are requested;
- B) whether priced bids are to be submitted at the same time as unpriced technical offers; if they are, such priced bids shall be submitted in a separate sealed envelope;
- C) that it is a multi-step sealed bid procurement, and priced bids will be considered only in the second phase and only from those bidders whose unpriced technical offers are

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

found acceptable in the first phase;

- D) the criteria to be used in the evaluation of the unpriced technical offers;
- E) that the Procurement Officer may conduct oral or written discussions of the unpriced technical offers;
- F) that the item being procured shall be furnished generally in accordance with the bidder's technical offer as found to be finally acceptable and shall meet the requirements of the Invitation for Bids.

2) Amendments to the Invitation for Bids. After receipt of unpriced technical offers, amendments to the Invitation for Bids shall be distributed only to bidders who submitted unpriced technical offers, and they shall be permitted to submit new unpriced technical offers or to amend those submitted. If, in the opinion of the Procurement Officer, a contemplated amendment will significantly change the nature of the procurement, the Invitation for Bids may be canceled in accordance with Section 1500.2040 (Cancellation of Solicitation; Rejection of Bids or Proposals) of this Part and a new Invitation for Bids issued.

3) Receipt and Handling of Unpriced Technical Offers. Unpriced technical offers submitted by bidders shall be opened in the presence of at least one witness. Such offers shall not be disclosed to unauthorized persons.

4) Evaluation of Unpriced Technical Offers. The unpriced technical offers submitted by bidders shall be evaluated solely in accordance with the criteria set forth in the Invitation for Bids. The unpriced technical offers shall be categorized as:

- A) acceptable;
  - B) potentially acceptable, that is, reasonably susceptible of being made acceptable; or
  - C) unacceptable, in which case the Procurement Officer shall record in writing the basis for finding an offer unacceptable, notify the vendor and make it part of the procurement file.
- 5) The Procurement Officer may initiate phase two of the procedure if, in the Procurement Officer's opinion, there are sufficient acceptable unpriced technical offers to assure effective price competition in the second phase without technical discussions. If the Procurement Officer finds discussion of the technical offers is necessary, the Procurement Officer shall commence discussions of the unpriced technical proposals.

6) Discussion of Unpriced Technical Offers. The Procurement Officer may conduct discussions with any vendor who submits an acceptable or potentially acceptable technical offer. During the course of such discussions, the Procurement Officer shall not disclose any information derived from one unpriced technical offer to any other bidder. Any such bidder may submit supplemental information amending its technical offer at any time until the



## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

closing date established by the Procurement Officer. Such submission may be made at the request of the Procurement Officer or upon the bidder's own initiative.

- 7) Unacceptable Unpriced Technical Offer. When the Procurement Officer determines a bidder's unpriced technical offer to be unacceptable, such offeror shall not be afforded an additional opportunity to supplement its technical offer.

- e) Procedure for Phase Two

- 1) Initiation. Upon the completion of phase one, the Procurement Officer shall either:

- A) open priced bids submitted in phase one (if priced bids were required to be submitted) from bidders whose unpriced technical offers were found to be acceptable; or
- B) if priced bids have not been submitted, invite each acceptable bidder to submit a priced bid.

- 2) Conduct. Phase two shall be conducted as any other competitive sealed bid procurement except:

- A) no public notice need be given of this invitation to submit priced bids because such notice was previously given;
- B) after award, the unpriced technical offer of the successful bidder shall be disclosed as follows: The Procurement Officer shall examine written requests of confidentiality for trade secrets and proprietary data in the technical offer of such bidder to determine the validity of any such requests. If the parties do not agree as to the disclosure of data, the Procurement Officer shall reject the offer. Such technical offer shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data; and
- C) unpriced technical offers of bidders who are not awarded the contract shall not be open to public inspection.

## Section 1500.2015 Competitive Sealed Proposals

## EMERGENCY

- a) Competitive Sealed Proposals may be used whenever permitted by the Code and as described in this Part.
- b) The Competitive Sealed Proposal method of source selection may be used to procure the following categories:
  - 1) electronic data processing equipment, software, and services;
  - 2) telecommunications equipment, software, and services;
  - 3) consulting services; and
  - 4) employee benefits and management of those benefits.
- c) Competitive Sealed Proposals may be used on a case-by-case basis when it is determined by the Procurement Officer that competitive sealed bidding is either not practicable or advantageous.
  - 1) "Practicable" Distinguished from "Advantageous." As used in Section 20-15 (Competitive Sealed Proposals) of the Illinois

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

Procurement Code and in this Section, "practicable" denotes what may be accomplished or put into practical application, and "advantageous" connotes a judgmental assessment of what is in the State's best interest. Competitive sealed bidding may be practicable, that is, reasonably possible, but not necessarily advantageous, that is, in the State's best interest. Before a procurement may be conducted by competitive sealed proposals, the Procurement Officer shall determine in writing that competitive sealed bidding is either not practicable or not advantageous to the State.

- 2) General Discussion

- A) If competitive sealed bidding is not practicable or is not advantageous, competitive sealed proposals should be used.
- B) The key element in determining whether use of a proposal is advantageous is the need for flexibility. The competitive sealed proposal method differs from competitive sealed bidding in two important ways:
  - i) it permits discussions with competing offerors and changes in their proposals, including price; and
  - ii) it allows comparative judgmental evaluations to be made when selecting among acceptable proposals for award of the contract.
- C) Where evaluation factors involve the relative abilities of offerors to perform, including degrees of experience or expertise, where the types of supplies or services may require the use of comparative, judgmental evaluations to evaluate them adequately, or where the type of need to be satisfied involves weighing aesthetic values to the extent that price is a secondary consideration, use of competitive sealed proposals is the appropriate procurement method.
- 3) When Competitive Sealed Bidding Is Not Practicable. Competitive sealed bidding is not practicable unless the nature of the procurement permits award to a low bidder who agrees by its bid to perform without condition or reservation in accordance with the purchase description, delivery or performance schedule, and all other terms and conditions of the Invitation for Bids. Factors to be considered in determining whether competitive sealed bidding is not practicable include:
  - A) whether the contract needs to be other than a fixed-price type;
  - B) whether oral or written discussions may need to be conducted with offerors concerning technical and price aspects of their proposals;
  - C) whether offerors may need to be afforded the opportunity to revise their proposals, including price;
  - D) whether award may need to be based upon a comparative evaluation, as stated in the Request for Proposals, of differing price, quality, and contractual factors in order

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

to determine the most advantageous offering to the State. Quality factors include technical and performance capability and the content of the technical proposal; and

E) whether the primary consideration in determining award may not be price.

4) When Competitive Sealed Bidding Is Not Advantageous. A determination may be made to use competitive sealed proposals if it is determined that it is not advantageous to the State, even though practicable, to use competitive sealed bidding. Factors to be considered in determining whether competitive sealed bidding is not advantageous include:

A) if prior procurements indicate that competitive sealed proposals may result in more beneficial contracts for the State; and

B) whether the factors listed in subsection (c)(3) of this Section are desirable, in conducting a procurement, rather than necessary; if they are, then such factors may be used to support a determination that competitive sealed bidding is not advantageous.

d) Content of the Request for Proposals

The Request for Proposals shall be prepared in accordance with Section 1500.2010 (Competitive Sealed Bidding), provided that it shall also include:

1) a statement that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award, but that proposals may be accepted without such discussions; and

2) a statement of when and how price should be submitted.

e) Receipt and Registration of Proposals

1) Proposals and modifications shall be opened publicly at the time, date and place designated in the Request for Proposals. Opening shall be witnessed by a State employee or by any other person present, but the person opening proposals shall not serve as witness. A record shall be prepared which shall include the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the supply or service item offered. The record of proposals shall be open to public inspection after award of the contract.

2) Proposals and modifications shall be opened in a manner to avoid disclosing contents to competitors. Only State personnel and contractual agents may review the proposals prior to award.

f) Evaluation of Proposals

1) Evaluation Factors in the Request for Proposals. The Request for Proposals shall state all of the evaluation factors, including price, and their relative importance.

2) Evaluation. The evaluation shall be based on the evaluation factors set forth in the Request for Proposals. Factors not specified in the Request for Proposals shall not be considered.

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

Numerical rating systems may be used but are not required. Classifying Proposals. For the purpose of conducting discussions, proposals may be initially classified as:

A) acceptable;

B) potentially acceptable, that is, reasonably susceptible of being made acceptable; or

C) unacceptable. Offerors whose proposals are unacceptable shall be so notified promptly.

g) Proposal Discussions with Individual Offerors

1) "Offerors" Defined. For the purposes of Section 20-15(f) (Competitive Sealed Proposals, Discussion with Responsible Offerors and Revisions to Proposals) of the Illinois Procurement Code and of this Section, the term "offerors" includes only those businesses submitting proposals that are acceptable or potentially acceptable. The term shall not include businesses that submitted unacceptable proposals.

2) Purposes of Discussions. Discussions are held to:

A) promote understanding of the State's requirements and the offerors' proposals; and

B) facilitate arriving at a contract that will be most advantageous to the State, taking into consideration price and the other evaluation factors set forth in the Request for Proposals.

3) Conduct of Discussions. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of proposals. If during discussions there is a need for any substantial clarification of, or change to, the Request for Proposals, the Request shall be amended to incorporate such clarification or change. Auction techniques (revealing one offeror's price to another) and disclosure of any information from competing proposals are prohibited. Any substantial oral clarification of a proposal shall be reduced to writing by the offeror.

4) Best and Final Offers. The Procurement Officer may request best and final offers from those offerors deemed acceptable after completion of any discussions. Best and final offers shall be submitted by a specified date and time. The Procurement Officer may conduct additional discussions or change the State's requirements and require another submission of best and final offers. The scope of the best and final and the number of vendors allowed to participate shall be defined by the Procurement Officer. If an offeror does not submit either a notice of withdrawal or another best and final offer, that offeror's immediately previous offer will be construed as its best and final offer.

h) Award

An award shall be made by the Procurement Officer pursuant to a written determination showing the basis on which the award was found

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

to be most advantageous to the State, based on the factors set forth in the Request for Proposals.

## i) Publicizing Awards

The successful offeror shall be notified of award and such notification may be in the form of a letter, purchase order or other clear communication. When the award exceeds the small purchase limit set in Section 1500.2020 of this Part, notice of award shall be published in the Bulletin.

**Section 1500.2020 Small Purchases****EMERGENCY**

## a) Application

1) Procurements of \$10,000 or less for supplies or services, other than professional and artistic, and \$30,000 or less for construction may be made using the method of source selection determined by the Procurement Officer to be most appropriate to the circumstances.

2) Procurements of less than \$20,000 for professional and artistic services and that have a non-renewal term of one year or less may be made using the method of source selection determined by the Procurement Officer to be most appropriate to the circumstances.

3) Any change identified by the United States Department of Labor in the Consumer Price Index, as certified by CMS, for All Urban Consumers for the period ending December 31, 1998, and for each year thereafter shall be used to adjust the small purchase maximums that shall be applicable for the fiscal year beginning July 1, 1999. The small purchase maximums shall be likewise recalculated for each July 1 thereafter.

b) In determining whether a contract is under the limit, the value of the contract for the full term and all optional renewals, determined in good faith, shall be utilized. The stated value of the supplies or services, plus any optional supplies and services, shall be utilized. Where the term is calculated month-to-month or in a similar fashion, the amount shall be calculated for a twelve month period.

c) If only a unit price or hourly rate is known, the contract shall be considered small and shall have a not to exceed limit applicable to the type of procurement (see subsection (a) above).

d) If, after signing the contract, the actual cost of completing the contract is determined to exceed \$10,000, and the Procurement Officer determines that a supplemental procurement is not economically feasible or practicable because of the immediacy of the agency's needs or other circumstances, the Procurement Officer must follow the procedures for sole source or emergency procurement, whichever is applicable, to complete the contract.

e) Procurement requirements shall not be artificially divided to avoid using the other source selection methods set forth in Section 20-5 of the Illinois Procurement Code.

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

f) If there is a repetitive need for small procurements of the same type, the Procurement Officer shall consider issuing a competitive sealed bid or proposal for procurement of those needs.

**Section 1500.2025 Sole Economically Feasible Source Procurement  
EMERGENCY**

## a) Application

The provisions of this Part apply to procurement from a sole economically feasible source (referred to as sole source) unless the estimated amount of the procurement is within the limit set in Section 1500.2020 (Small Purchases) or unless emergency conditions exist as defined in Section 1500.2030 (Emergency Procurements) of this Part.

b) Conditions for Use of Sole Source Procurement Sole source procurement is permissible when a requirement is available from only a single supplier or when only one supplier is deemed economically feasible. A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder or offeror authorized to provide that item. The following are examples of circumstances that could necessitate sole source procurement:

- 1) where the compatibility of equipment, accessories, replacement parts, or service is a paramount consideration;
- 2) where a sole supplier's items are needed for trial use or testing;
- 3) where a sole supplier's item is to be procured for commercial resale;
- 4) where public utility regulated services are to be procured;
- 5) where the item is copyrighted or patented and the item or service is not available except from the holder of the copyright or patent;
- 6) the procurement of the media for advertising; and
- 7) the procurement of art or entertainment services.

c) Changes to an existing contract that are germane and reasonable in scope and cost in relation to the original contract or program, that are necessary or desirable to complete the contract or program, and that can be best accomplished by the contract holder may be procured under this Section when the Procurement Officer determines that the cost of delay or disruption to the contract or program, and the cost of a new solicitation, clearly indicate that the existing vendor is the sole economically feasible source.

## d) Procurement Officer to Determine

1) The determination as to whether a procurement shall be made as a sole source shall be made by the Procurement Officer. Such determination and the basis therefore shall be in writing. Such officer may specify the application of such determination and the duration of its effectiveness.

e) Publication of Sole Source Notice



## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

The Procurement Officer shall submit to CMS for publication in the Bulletin notice of intent to contract with that vendor at least 14 days prior to execution of the contract.

1) If no challenge to this determination is made by a vendor within the 14 day period, the Procurement Officer may execute a contract with that vendor.

2) If a challenge is received, the Procurement Officer shall consider the information and shall commence a competitive procurement if the Procurement Officer determines that more than one economically feasible source may be available and the sole source designation is, therefore, not appropriate, unless an emergency situation exists.

f) Negotiation in Sole Source Procurement

The Procurement Officer shall conduct negotiations, as appropriate, to reach contract terms, including price, and shall maintain a record of each sole source procurement showing:

- 1) the vendor's name;
- 2) the amount and type of the contract;
- 3) what was procured; and
- 4) the identification number of the contract file.

### Section 1500.2030 Emergency Procurements EMERGENCY

a) Applications

The provisions of this Part apply to every procurement over the small purchase limit set in Section 1500.2020 (Small Purchases) of this Part made under emergency, including quick purchase, conditions.

b) Definition of Emergency Conditions

1) A procurement may be made under this Section in situations in which:

- A) public health or safety, including the health or safety of any particular person, is threatened;
- B) immediate repairs are needed to State property to protect against further loss or damage to State property, or to prevent loss or damage to State property;
- C) immediate action is needed to prevent or minimize serious disruption in State services;
- D) action is needed to ensure the integrity of State records;
- E) a supplier announces bankruptcy, cessation of business, or loss of franchise, or gives other similar reason such that making a purchase immediately is more advantageous to the State than instituting a competitive procurement under the provisions of this Code for the supplies or services;
- F) items are available on the spot market or at discounted prices for a limited time so that good business judgment mandates a purchase immediately to take advantage of the availability and price;

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

G) equipment or services are necessary in the furtherance of covert activities lawfully conducted by a State agency. Any required disclosures shall be made so as not to jeopardize those covert activities;

H) immediate action is necessary to avoid lapsing or loss of federal or donated funds;

I) availability of rare items such as books of historical value;

J) extending an existing contract for such period of time as is needed to conduct a competitive method of source selection where terminating or allowing the contract to terminate would not be advantageous to the State; or

K) the need for services to protect or further State interests is immediate and use of other competitive source selection procedures under the Code and this Part cannot be accomplished without significant risk of causing disadvantage to the State.

2) After Unsuccessful Competitive Sealed Bidding or Proposals or Request for Proposals. When bids or proposals received pursuant to a competitive sealed bid or competitive sealed proposal method are unreasonable or noncompetitive, or the price exceeds available funds, and time or other circumstances will not permit the delay required to resolicit competitive sealed bids or proposals, and if emergency conditions exist after an unsuccessful attempt to use competitive sealed bidding, an emergency procurement may be made.

c) Scope of Emergency Conditions

Emergency procurements shall be limited to the items, quantity and term necessary to meet the emergency need.

d) Source Selection Methods

Any method of source selection, whether or not identified in this Part, may be used to conduct the procurement in emergency situations. The procedure used shall be selected to assure that the required items are procured in time to meet the emergency. Such competition as is practicable shall be obtained.

e) Determination and Record of Emergency Procurement

1) Determination. The Procurement Officer shall make a written determination stating the basis for an emergency procurement and for the selection of the particular vendor. Such determinations shall be kept in the contract file of the Procurement Officer.

2) Record. An affidavit of each emergency procurement shall be filed with the Auditor General within 10 days after the procurement and shall include the following information:

- A) the vendor's name;
- B) the amount and type of the contract, provided that if only an estimate of the amount is available immediately, the record shall be supplemented with the final amount once known;
- C) a description of what the vendor will do or

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

provide;

- D) the reasons for using the emergency method of source selection.
- 3) Notice of the emergency procurement shall be published in the Bulletin in accordance with Subpart D of this Part.

### Section 1500.2035 Competitive Selection Procedures for Professional and Artistic Services EMERGENCY

a) Application

- 1) The provisions of this Section apply to every procurement of professional and artistic services except those subject to the Architectural, Engineering and Land Surveying Qualifications Based Selection Act [30 ILCS 535].

- 2) "Professional and artistic services" means those services provided under contract to a State agency by a person or business, acting as an independent contractor, qualified by education, experience, and technical ability [30 ILCS 525/1-15.60].

b) Professional and artistic services are further defined as follows:

- 1) "Qualified by education" means the individual who would perform the services must have obtained the level of education specified in the Request for Proposals.

- 2) "Qualified by experience" means the individual who would perform the services must have the level of general experience specified in the Request for Proposals.

- 3) "Qualified by technical ability" means the individual who would perform the services must demonstrate a high degree of skill or ability in performing services that are the same, similar or closely related in nature to those specified in the Request for Proposals.

- 4) An essential element distinguishing professional and artistic services from other services is confidence, trust, and belief in not only the ability, but the talent, of the individual performing the service. These services are primarily for intellectual or creative skills. Contracts for services primarily involving manual skills or labor are not professional and artistic services contracts. (See Illinois Attorney General Opinion S-256, January 20, 1971.)

- 5) If the professional or artistic contract is with a firm or other business entity, the individuals whose education, experience and technical ability provided the basis on which the firm or other business entity was selected must meet the qualifications.

- c) The categories of services enumerated below shall be considered and procured as professional and artistic services. With regard to other services, the CPO may determine whether the factors identified in subsection (b), when applied to particular services to be procured,

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

require such services to be procured as professional and artistic under these competitive selection procedures, or as services that are subject to one of the other methods of source selection authorized by the Code and this Part. The following categories are examples of disciplines that would always be professional and artistic services:

- 1) law;
  - 2) accounting;
  - 3) medicine;
  - 4) dentistry; and
  - 5) clinical psychology.
- d) Architect, engineering and land surveying services shall be procured pursuant to the procedures of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535]. Such procurements are not subject to the procedures for other professional services established in the Code or this Part.
- e) Conditions for Use of Competitive Selection Procedures Except as authorized under Section 20-25 (Sole Source Procurement) or Section 20-30 (Emergency Procurements) of the Code, these competitive selection procedures shall be used for all procurements of professional and artistic services of \$20,000 or more. Services less than \$20,000 and for a nonrenewable term of one year or less may be procured in accordance with Section 1500.2020 (Small Purchases) of this Part.
- f) Prequalification. The CPO may use the list of prequalified professional and artistic vendors maintained by CMS. Persons may amend statements of qualifications at any time by filing a new statement. Failure of a professional and artistic vendor to prequalify shall not be cause for rejection of a proposal provided that the responsive offeror supplies with its proposal all information defined by the prequalification process.
- g) Public Notice of Competitive Selection Procedures
- 1) Notice of the need for professional and artistic services shall be made by the Procurement Officer in the form of a Request for Proposals.
  - 2) Notice shall be given as provided in Section 1500.2010 (Competitive Sealed Bidding) of this Part.
  - 3) Notice shall also be distributed to prequalified persons interested in performing the services required by the proposed contract.
- h) Request for Proposals
- 1) Contents. The Request for Proposals shall be in the form specified by the CPO and shall contain at least the following information:
    - A) the type of services required;
    - B) a description of the work involved;
    - C) an estimate of when and for how long the services will be required;
    - D) the type of contract to be used;

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

- E) a date by which proposals for the performance of the services shall be submitted;
- F) a statement of the minimum information that the proposal shall contain, which may, by way of example, include:
- i) the name of the offeror, the location of the offeror's principal place of business and, if different, the place of performance of the proposed contract;
  - ii) if deemed relevant by the Procurement Officer, the age of the offeror's business and average number of employees over a previous period of time, as specified in the Request for Proposals;
  - iii) the abilities, qualifications, and experience of all persons who would be assigned to provide the required services;
  - iv) a listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within a previous period of time, as specified in the Request for Proposals;
  - v) a plan explaining how the services will be performed;
- G) price (to be submitted in a separate envelope in the proposal package and not mentioned elsewhere in the proposal package); and
- H) the factors to be used in the evaluation and selection process and their relative importance.
- 2) Evaluation. Proposals shall be evaluated only on the basis of evaluation factors stated in the Request for Proposals. Price will not be evaluated until ranking of all proposals and identification of the most qualified vendor. The relative importance of the evaluation factors will vary according to the type of services being procured. The minimum factors are:
- A) the plan for performing the required services;
  - B) ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services;
  - C) the personnel, equipment, and facilities to perform the services currently available or demonstrated to be made available at the time of contracting; and
  - D) a record of past performance of similar work.
- i) Pre-Proposal Conference
- A pre-proposal conference, if appropriate, shall be conducted in accordance with Section 1500.2010(f) (Pre-Bid Conference). Such a conference may be held anytime prior to the date established for submission of proposals.
- j) Delivery, Receipt and Handling of Proposals
- 1) Proposals shall be submitted to and opened by the CPO.

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

- 2) Public Opening
- A) Proposals and modifications shall be opened publicly at the time, date and place designated in the Request for Proposals.
  - B) Opening shall be witnessed by a State employee or by any other person present, but the person opening proposals shall not serve as witness. A record shall be prepared that shall include the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the supply or service item offered. The record of proposals shall be open to public inspection after award of the contract.
  - C) Proposals and modifications shall be opened in a manner designed to avoid disclosing contents to competitors. Only State personnel and contractual agents may review the proposals prior to award.
  - D) Proposals of offerors who are not awarded the contract shall not be open to public inspection.
- k) Discussions
- 1) Discussions Permissible. The Procurement Officer may conduct discussions with any offeror to:
    - A) determine in greater detail such offeror's qualifications; and
    - B) explore with the offeror the scope and nature of the required services, the offeror's proposed method of performance, and the relative utility of alternative methods of approach. The Procurement Officer may allow changes to the proposal based on those discussions.
  - 2) No Disclosure of Information. Discussions shall not disclose any information derived from proposals submitted by other offerors, and the agency conducting the procurement shall not disclose any information contained in any proposals until after award of the proposed contract has been made. The proposal of the offeror awarded the contract shall be open to public inspection except as otherwise provided in the contract.
- l) Selection of the Best Qualified Offerors
- After conclusion of validation of qualifications, evaluation, and discussion, the Procurement Officer shall rank the acceptable offerors in the order of their respective qualifications.
- m) Evaluation of Pricing Data
- Pricing submitted for all acceptable proposals shall be opened and ranked.
- 1) If the low price is submitted by the most qualified vendor, the Procurement Officer may award to that vendor.
  - 2) If the price of the most qualified vendor is not low and if it does not exceed \$25,000, the Procurement Officer may award to that vendor.
  - 3) If the price of the best qualified vendor exceeds \$25,000, the



## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

Procurement Officer must state why a vendor other than the low priced vendor was selected and that determination shall be published in the Bulletin.

## n) Negotiation and Award of Contract

1) General. The Procurement Officer shall attempt to negotiate a contract with the best qualified offeror for the required services at fair and reasonable compensation. The Procurement Officer may, in the interest of efficiency, negotiate with other vendors, while negotiating with the best qualified vendor.

2) Elements of Negotiation. At a minimum, contract negotiations shall be directed toward:

A) making certain that the offeror has a clear understanding of the scope of the work, specifically, the essential requirements involved in providing the required services;

B) determining that the offeror will make available the necessary personnel and facilities to perform the services within the required time; and

C) agreeing upon compensation that is fair and reasonable, taking into account the estimated value of the required services and the scope, complexity, and nature of such services.

3) Successful Negotiation of Contract with Best Qualified Offeror

A) If compensation, contract requirements, and contract documents can be agreed upon with the best qualified offeror, the contract shall be awarded to that offeror, unless the procurement is canceled.

B) Compensation must be determined in writing to be fair and reasonable. Fair and reasonable compensation shall be determined by the Procurement Officer based on the circumstances of the particular procurement, including but not limited to the nature of the services needed, qualifications of the offerors, consideration of range of prices received in the course of the procurement, and the agency's identified budget.

4) Failure to Negotiate Contract with Best Qualified Offeror

A) If compensation, contract requirements, or contract documents cannot be agreed upon with the best qualified offeror, a written record stating the reasons therefore shall be placed in the file. The Procurement Officer shall advise such offeror of the termination of negotiations.

B) Upon failure to negotiate a contract with the best qualified offeror, the Procurement Officer may enter into negotiations with the next most qualified offeror.

C) Nothing in this Section shall prohibit the Procurement Officer from making a selection that represents the best value, qualifications, price and other relevant factors established in the request for proposals being considered. The Procurement Officer may, in considering best value,

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

determine the proposal from a fully qualified vendor that submitted the lowest price to be the best value without further evaluation.

o) The Procurement Officer procuring professional and artistic services, including those under an exception described in subsection (e), shall provide to CMS the information necessary for publication in the Bulletin.

p) Notice of Award. Written notice of award shall be public information and made a part of the contract file. Publication shall be in the next available issue of the Bulletin.

q) Post Performance Review. The Purchasing Officer shall provide a synopsis of the contract and shall rate the vendor's performance. A copy of the completed form shall be maintained in the files of the CPO.

Section 1500.2036 Other Methods of Source Selection  
EMERGENCY

## a) Split Award

1) An award of a definite quantity requirement may be split between bidders or offerors. Each portion shall be for a definite quantity and the sum of the portions shall be the total definite quantity required. A split award may be used only when award to more than one bidder or offeror for different amounts of the same item are necessary to obtain the total quantity or the required delivery.

2) The Procurement Officer shall make a written determination setting forth the reasons for the split award, which determination shall be made a part of the procurement file.

## b) Multiple Award

1) A multiple award is an award of an indefinite quantity contract to more than one bidder or offeror when the State is obligated to order all of its actual requirements from those vendors.

2) A multiple award may be made when award to two or more bidders or offerors for similar products is necessary for adequate delivery, service, or product compatibility. Any multiple award shall be made in accordance with the provisions of Section 1500.2010 (Competitive Sealed Bidding), Section 1500.2015 (Competitive Sealed Proposals), Section 1500.2020 (Small Purchases), and Section 1500.2030 (Emergency Procurements), as applicable. Awards shall not be made for the purpose of simply dividing the business or to select products or suppliers to allow for user preference unrelated to utility or economy. Any such awards shall be limited to the least number of suppliers necessary to meet the valid requirements of State agencies.

3) The OG shall reserve the right to take bids separately if a particular quantity requirement arises that exceeds its normal requirement or an amount specified in the contract.

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

- 4) If a multiple award is anticipated, the solicitation shall state this fact as well as the criteria for award.
- 5) In a multiple award situation, one vendor may be designated as the primary recipient of orders. The other awardees may receive orders in the event the primary vendor is unable to deliver or for other reasons as determined by the Procurement Officer.

## c) Master Contracts

- 1) A master contract contains agreed contractual terms and conditions established for the convenience of the parties to be used in conjunction with a subsequent procurement and processed in accordance with the requirements of the Code and this Part. A master contract is not a procurement. It creates no obligation on the part of the OG to procure from the vendor.

- 2) Orders may be placed against master contracts without use of any prescribed method of source selection for convenience of processing small procurements.

## d) Auction

Purchases may be made at auction in accordance with the procedural requirements applicable to the particular auction. Notice and competition is not required and the amount payable shall be the amount bid and accepted plus any required buyer's premium.

## e) Federal Requirements

The Procurement Officer receiving federal aid funds, grants or loans may conduct procurements in accordance with federal requirements that are necessary to receive or maintain those federal aid funds, grants or loans.

## f) Donations

- 1) When a procurement will have the majority of funding from a donation, the terms of which donation require use of particular procurement or contracting procedures, the Procurement Officer may follow those procedures, but shall follow the Code and this Part whenever practicable.

- 2) Donations may be acknowledged by the donee agency in a manner appropriate to the type of donation and the program activity associated with the donation. Acknowledgment may include, but need not be limited to, public announcement at the event or in donee agency publications, and inviting the donor to attend the program activity associated with the donation.

## Section 1500.2037 Tie Bids and Proposals

## EMERGENCY

- a) Tie bids or proposals are those from responsive and responsible vendors that are identical in price or evaluation and represent the low price.

- b) Tie bids or proposals will be treated as follows:

- 1) If the tied vendors include an Illinois resident vendor, the Illinois resident vendor shall be given the award. In all other

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

situations, including if two or more Illinois resident bidders are tied, the decision shall be made in accordance with this subsection (b). "Illinois resident vendor" has the meaning given in Section 1500.4510 (Resident Bidder Preference) of this Part.

- 2) If there is a significant difference in responsibility (including ability to provide the service or deliver in the quantity and at the time required), the award will be made to the vendor who is deemed to be the most responsible. A vendor who has had experience in contracting with the State shall be given additional consideration in determining responsibility if the Procurement Officer determines that dealing with a vendor that has knowledge of State requirements, contracts, job sites, payment practices and such other factors and with which there has been favorable past experience increases the likelihood of successful performance.

- 3) If there is no significant difference in responsibility, but there is a difference in the quality of the supplies or services offered, the vendor offering the best quality will be accepted.

- 4) If there is no significant difference in responsibility and no difference in quality of the supplies or services offered, the vendor offering the earliest delivery time will be accepted in any case in which the solicitation specified that the needs of the agency require delivery as early as possible.

- 5) If the bids or proposals are equal in every respect, the award shall be made by lot unless the Procurement Officer determines that splitting the award among two or more of the tied bidders is in the best interest of the State. Awards may be split if all affected bidders agree, if splitting is feasible given the type of supplies or services requested, if overall pricing would not increase, if delivery would be better ensured, or if necessary or desirable to promote future competition.

- c) Record. Each SPO shall provide a report to the CPO on a quarterly basis of all procurements on which tie bids or proposals were received. The report shall provide at least the following information:

- 1) the identification number of the solicitation;
- 2) a description of what was procured; and
- 3) a listing of all the bidders and the prices submitted.

## Section 1500.2038 Mistakes

## EMERGENCY

- a) General. Corrections to bids, proposals or other procurement processes are allowed, but only to the extent not contrary to the best interest of the State or the fair treatment of other bidders.

- b) Mistakes Discovered Before Opening. A vendor may correct mistakes discovered before the time and date set for opening by withdrawing or correcting as provided in this Section.

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

- c) Confirmation of Mistake. When the Procurement Officer knows or has reason to conclude that a mistake has been made, such officer shall request the vendor to confirm the information. Situations in which confirmation should be requested include obvious or apparent errors on the face of the document or a price unreasonably lower than the others submitted. If the vendor alleges a mistake, the bid or proposal may be corrected or withdrawn if the conditions set forth in this Section, as applicable, are met.
- d) Mistakes in Bids Discovered After Opening but Before Award. This subsection (d) sets forth procedures to be applied in situations in which mistakes in bids are discovered after the time and date set for bid opening but before award.
- 1) Minor informalities. A minor informality or irregularity is one that is a matter of form or pertains to some immaterial or inconsequential defect or variation of a bid from the exact requirement of the Invitation for Bids, the correction or waiver of which would not be prejudicial to the State (i.e., the effect on price, quality, quantity, delivery, or contractual conditions is negligible). The Procurement Officer shall waive such informalities or allow the bidder to correct them depending on which is in the best interest of the State. Examples of minor informalities as to form include the failure of a bidder to:
    - A) return the number of signed bids required by the Invitation for Bids;
    - B) acknowledge receipt of an amendment to the Invitation for Bids, but only if:
      - i) it is clear from the bid that the bidder received the amendment and intended to be bound by its terms; or
      - ii) the amendment involved had a negligible effect on price, quantity, quality, or delivery.
  - 2) Mistakes Where Intended Correct Bid Is Evident. If the mistake and the intended correct bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors.
  - 3) Mistakes Where Intended Correct Bid Is Not Evident. A bidder may be permitted to withdraw a low bid if:
    - A) a mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
    - B) the bidder submits proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made.
  - e) Mistakes in Proposals Discovered After Receipt, but Before Award. This subsection (e) sets forth procedures to be applied in four situations in which mistakes in proposals are discovered after receipt of proposals but before award.
    - 1) During Discussions; Prior to Best and Final Offers. Once

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

- discussions are commenced with any offeror or after best and final offers are requested, any offeror may freely correct any mistake prior to the date set for conclusion of discussions or for receipt of best and final offers.
- 2) Minor Informalities. Minor informalities, unless otherwise corrected by an offeror as provided in this Section, shall be treated as they are under subsection (d).
  - 3) Correction of Mistakes. If discussions are not held or if the best and final offers upon which award will be made have been received, mistakes may be corrected and the intended correct offer considered only if:
    - A) the mistake and the intended correct offer are clearly evident on the face of the proposal, in which event the proposal may not be withdrawn; or
    - B) the mistake is not clearly evident on the face of the proposal, but the offeror submits adequate proof that clearly and convincingly demonstrates both the existence of a mistake and the intended correct offer, and such correction would not be contrary to the fair and equal treatment of other offerors.
  - 4) Withdrawal of Proposals. If discussions are not held, or if the best and final offers upon which award will be made have been received, the offeror may be permitted to withdraw the proposal if:
    - A) the mistake is clearly evident on the face of the proposal and the intended correct offer is not;
    - B) the offeror submits proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made but does not demonstrate the intended correct offer; or
    - C) the offeror submits adequate proof that clearly and convincingly demonstrates the intended correct offer, but to allow corrections would be contrary to the fair and equal treatment of other offerors.
  - f) Mistakes Discovered After Award. Mistakes shall not be corrected after award of the contract except where the Procurement Officer finds it would be unconscionable (e.g., if the mistake resulted in a windfall to the State) not to allow the mistake to be corrected.
  - g) Determinations Required. When a proposal is corrected or withdrawn, or correction or withdrawal is denied, a written determination shall be prepared showing that relief was granted or denied in accordance with this Part. The Procurement Officer shall prepare the determination.

Section 1500.2040 Cancellation of Solicitations; Rejection of Bids or Proposals  
EMERGENCY

- a) Scope of this Section



## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

The provisions of this Section shall govern the cancellation of any solicitations whether issued by the State under competitive sealed bidding, competitive sealed proposals, small purchases, or any other source selection method, and rejection of bids or proposals in whole or in part.

- b) Policy  
Any solicitation may be canceled when the Procurement Officer believes cancellation to be in the State's best interest. Nothing shall compel the award of a contract.

- c) Cancellation of Solicitation; Rejection of All Bids or Proposals Prior to Opening  
1) As used in this Section, "opening" means the date set for opening of bids, receipt of unpriced technical offers in multi-step sealed bidding, or receipt of proposals in competitive sealed proposals.

- 2) Prior to opening, a solicitation may be canceled in whole or in part when the Procurement Officer determines in writing that such action is in the State's best interest for reasons including, but not limited to:

- A) the OG no longer requires the supplies or services;  
B) the OG no longer can reasonably expect to fund the procurement; or  
C) proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable.

- 3) When a solicitation is canceled prior to opening, notice of cancellation shall be sent to all businesses that responded to the solicitation.

- 4) The notice of cancellation shall:

- A) identify the solicitation;  
B) briefly explain the reason for cancellation; and  
C) where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurements of similar supplies or services.

- d) Cancellation of Solicitation; Rejection of All Bids or Proposals After Opening

- 1) After opening but prior to award, all bids or proposals may be rejected in whole or in part when the Procurement Officer determines in writing that such action is in the State's best interest. Such reasons may include, but are not limited to:

- A) the supplies or services being procured are no longer required;  
B) ambiguous or otherwise inadequate specifications were part of the solicitation;  
C) the solicitation did not provide for consideration of all factors of significance to the State;  
D) prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

- E) all otherwise acceptable bids or proposals received are at clearly unreasonable prices; or  
F) there is reason to question whether the bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith.

- 2) When the solicitation is canceled or when all bids or proposals are rejected, all vendors who submitted bids or proposals shall be sent a notice upon request informing them of the reasons for the cancellation or rejection.

- e) Documentation. The reasons for cancellation or rejection shall be made a part of the procurement file and shall be available for public inspection.

- f) Rejection of Individual Bids or Proposals  
1) General. This subsection (f) applies to rejections of individual bids or proposals in whole or in part.

- 2) Notice in Solicitation. Each solicitation shall provide that any bid or proposal may be rejected in whole or in part when in the best interest of the State as provided in this Section.

- 3) Reasons for Rejection Reasons for rejecting a bid or proposal may include, but are not limited to:

- A) the business that submitted the bid or proposal is nonresponsible as determined under Section 1500.2046 (Responsibility) of this Part;  
B) the bid or proposal is not responsive, that is, it does not conform in all material respects to the solicitation;  
C) the proposal ultimately (that is, after any opportunity has passed for altering or clarifying the proposal) fails to meet the announced requirements of the State in some material respect;  
D) the supply or service item offered in the bid is unacceptable by reason of its failure to meet the requirements of the specifications or permissible alternates or other acceptability criteria set forth in the Invitation for Bids; or  
E) the proposed price is clearly unreasonable.

- 4) Notice of Rejection. Upon request, unsuccessful bidders or offerors shall be advised of the reasons for rejection.

## SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section 1500.2043 Suppliers  
EMERGENCY

- a) The OG may contract with any qualified source of supply, but should give preference to Directed Sources, and should consider the following Special Sources.  
b) Directed Sources -- State-Produced Supplies or Services

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

- 1) Correctional Industries. The CPO, after consulting with the Department of Corrections, shall determine the type and extent of the preference purchasing agencies shall give to supplies produced or services performed by Correctional Industries. Factors to be considered in determining the preference include, but are not limited to, the ability of Correctional Industries to meet the OG's requirements, the price charged and the reason for the Correctional Industries program.
- 2) Central Services. Supplies and services available from the program operations CMS shall be utilized unless the CPO authorizes procurement from other sources.
- c) Special Sources
  - 1) Prior to any equipment procurement, the OG will consider property available from the State and Federal Surplus Warehouses, which are under the jurisdiction of CMS.
  - 2) Various supplies and services are available from qualified workshops for the disabled and procurement from these workshops is encouraged. Notice and competition is not required pursuant to Section 45-35 of the Code.
  - 3) Various supplies and services are available from State agencies and other governmental units. These may be procured without notice and competition.

#### Section 1500.2045 Responsibility EMERGENCY

- a) Application
 

Contracts are to be made only with responsible vendors unless no responsible vendor is available to meet the State's needs. If there is doubt about responsibility, and if a bond or other security would adequately protect the State's interests, then that vendor may be awarded a contract upon receipt of the bond or other security.
- b) Standards of Responsibility
  - 1) Standards. Factors to be considered in determining whether the standard of responsibility has been met include whether a prospective vendor:
    - A) has available the appropriate financial, material, equipment, facility, and personnel resources and expertise (or the ability to obtain them) necessary to indicate its capability to meet all contractual requirements (the Procurement Officer may designate a level of financial resource below which the vendor will be deemed "not responsible");
    - B) is able to comply with required or proposed delivery or performance schedules, taking into consideration all existing commercial and governmental commitments;
    - C) has a satisfactory record of performance. Vendors who are or have been deficient in current or recent contract

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

- performance in dealing with the State or other customers may be deemed "not responsible" unless the deficiency is shown to have been beyond the reasonable control of the vendor;
- D) has a satisfactory record of integrity and business ethics. Vendors who are under investigation or indictment for criminal or civil actions that bear on the particular procurement or that create a reasonable inference or appearance of a lack of integrity on the part of the vendor may be declared not responsible for the particular procurement;
  - E) is qualified legally to contract with the State;
  - F) has supplied all necessary information in connection with the inquiry concerning responsibility;
  - G) has a current Public Contracts number from the Illinois Department of Human Rights, pursuant to 44 Ill. Adm. Code 750.210, if required. Proof of application prior to opening of bids or proposals will be sufficient for an initial determination; and
  - H) pays prevailing wages, if required by law.
- 2) Information Pertaining to Responsibility. The prospective vendor shall supply information requested by the Procurement Officer concerning the responsibility of such vendor. The State may supplement this information from other sources and may require additional documentation at any time. If such vendor fails to supply the requested information, the Procurement Officer shall base the determination of responsibility upon any available information, or may find the prospective vendor nonresponsible.
  - c) Ability to Meet Standards
 

The prospective vendor may demonstrate the availability of necessary financing, equipment, facilities, expertise, and personnel by submitting upon request:

    - 1) evidence that such vendor possesses such necessary items;
    - 2) acceptable plans to subcontract for such necessary items; or
    - 3) a documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items.
  - d) Duty Concerning Responsibility
 

Before awarding a contract, the Procurement Officer must be satisfied that the prospective vendor is responsible. Responsibility can be proven until time of contract execution unless the solicitation or other law requires that the vendor submit information necessary to determine responsibility by a stated date or time.

Written Determination of Nonresponsibility Required

If a vendor who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the CPO or the SPO. The final determination shall be made part of the procurement file.
  - f) Bond for Responsibility



## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

Vendors not having a history of performance may be considered responsible if no other disqualifying factors exist. A bond or other security may be required of such vendors.

## g) Affiliated Companies

Vendors who are newly formed business concerns having substantially the same owners, officers, directors, or beneficiaries as a previously existing vendor that has been determined not responsible will also be determined not to be responsible unless the new organization can prove it was not set up for the purpose of avoiding an earlier determination of nonresponsibility.

## SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

## Section 1500.2047 Security Requirements

## EMERGENCY

a) A Procurement Officer may require that a vendor furnish bid, proposal, or performance security on OG contracts. Whenever security is required, except as provided herein, the procurement document will clearly indicate the type and amount of security.

b) Security, unless otherwise specified, may be in the form of cashier's check, certified check, money order, irrevocable letter of credit or bond. Any bond must be issued by a surety company authorized to do business in the State of Illinois.

c) Unless the amount is set by law, the Procurement Officer will determine the amount, in dollars or percentage of contract price, that will adequately protect the State's interests. That amount will vary depending on the type of procurement and the risks and potential losses associated with delay or failure to complete the project, and for other such reasons.

d) A vendor may be required to furnish up to 100% performance security at any time during contract performance and at its cost, if it appears that delivery or production schedules cannot be met, quality is poor, responsibility is questioned and for similar reasons.

e) Bid or proposal security will be returned to unsuccessful vendors as soon after award as possible. The bid or proposal security of the successful vendor will be returned after contracts have been signed and performance security, if any, submitted. Performance security will be returned upon full performance.

## SUBPART H: SPECIFICATIONS

## Section 1500.2050 Specifications

## EMERGENCY

a) The OG may use specifications or qualified products lists established or used by CMS.

b) Brand Name or Equal Specification

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

1) Brand name or equal specifications may be used when the Procurement Officer determines in writing that:

- A) no specification for a common or general use specification or qualified products list is available;
- B) time does not permit the preparation of another form of specification, not including a brand name specification;
- C) the nature of the product or the nature of the State's requirement makes use of a brand name or equal specification suitable for the procurement; or
- D) use of a brand name or equal specification is in the State's best interest.

2) Brand name or equal specifications shall seek to designate more than one brand as "or equal", and shall further state that substantially equivalent products to those designated will be considered for award.

3) Unless the Procurement Officer determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics that are required.

4) Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. "Or equal" submissions will not be rejected because of minor differences in design, construction or features that do not affect the suitability of the product for its intended use. Burden of proof that the product is equal is on the bidder.

## c) Brand Name Only Specification

1) Determination. A brand name only specification may be used only when the Procurement Officer makes a written determination that only the identified brand name item or items will satisfy the State's needs.

2) Use. Brand name alone may be specified in order to fill medical prescription needs, to stock State retail-type operations, to ensure compatibility in existing systems, to preserve warranty, to ensure maintenance, or as authorized in writing by the CPO. An agency may, pursuant to an authorized competitive procedure, select a particular vendor to provide supplies or services for a specified period of time, and for that period the supplier of additional, related and updated supplies and services may be limited to the selected vendor or the brand initially selected.

3) Competition. The Procurement Officer shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable. If only one source can



## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

supply the requirement, the procurement shall be made under Section 1500.2055 (Sole Source Procurement) of this Part.

## d) Proven Products

The supply or service may be rejected if it has not been offered to other governmental or commercial accounts for at least one year. Specifications may require that the supply or services must have been used in business or industry for a specified period of time to be considered.

## SUBPART I: CONTRACT TYPE

Section 1500.2055 Types of Contracts  
EMERGENCY

## a) Scope

This Section contains descriptions of types of contracts and limitations as to when they should be utilized by the State in its procurements. Types of contracts not mentioned in this Section may also be utilized.

## b) Prohibition of Cost-Plus-a-Percentage-of-Cost Contracting

The cost-plus-a-percentage-of-cost contract is prohibited by Section 20-55 of the Illinois Procurement Code. This type of contracting may not be used alone or in conjunction with an authorized type of contract. A cost-plus-percentage-of-cost contract is one in which the vendor selects the supply or service on which the vendor's percentage is applied.

- 1) A percentage mark-up from an agreed price list is not a cost-plus-a-percentage-of-cost contract.
- 2) A percentage mark-up from the price of a supply or service selected by the State or another vendor under contract to the State is not a cost-plus-a-percentage-of-cost contract.

## c) Types of Fixed-Price Contracts

- 1) Firm Fixed-Price Contract. A firm fixed-priced contract provides a price that is not subject to adjustment because of variations in the vendor's cost of performing the work specified in the contract.

## 2) Fixed-Price Contract with Price Adjustment

- A) A fixed-price contract with price adjustment provides for variation in the contract price under special conditions defined in the contract, other than customary provisions authorizing price adjustments due to modifications to the work. The formula or other basis by which the adjustment in the vendor's price can be made shall be specified in the solicitation and the resulting contract. Adjustment allowed may be upward or downward only, or both upward and downward. Examples of conditions under which adjustments may be provided in fixed-price contracts are:

- i) changes in the vendor's labor agreement rates as

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

applied to an industry or area (such as are frequently found in contracts for the purchase of coal);

- ii) changes due to rapid and substantial price fluctuations that can be related to an accepted index (such as contracts for gasoline, heating oils, and dental gold alloy); and

- iii) in requirement contracts, where a vendor is selected to provide all of the State's needs for the items specified in the contract, when a general price change applicable to all customers occurs, or when a general price change alters the base price (such as a change in a manufacturer's published price list or posted price to which a fixed discount is applied pursuant to the contract to determine the contract price).

- B) If the contract permits unilateral action by the vendor to bring about the condition under which a price increase may occur, the State shall have the right to reject the price increase and terminate without cost the future performance of the contract.

## d) Cost-Reimbursement Contracts

- 1) Determination Prior to Use

- A) A cost-reimbursement type contract may be used only when the Procurement Officer determines in writing that such a contract is likely to be less costly to the State than any other type or that it is impracticable to obtain the items.

- B) Reimbursement of travel expenses in accordance with applicable travel control board regulations is authorized without further determinations.

- 2) Cost Contract. A cost contract provides that the vendor will be reimbursed for allowable costs incurred in performing the contract, but will not receive a fee.

- 3) Cost-Plus-Fixed-Fee Contract. This is a cost-reimbursement type contract that provides for payment to the vendor of an agreed fixed fee in addition to reimbursement of allowable incurred costs. The fee is established at the time of contract award and does not vary if the actual cost of contract performance is greater or less than the initial estimated cost established for such work. Thus, the fee is fixed but not the contract amount because the final contract amount will depend on the allowable costs reimbursed. The fee is subject to adjustment only if the contract is modified to provide for an increase or decrease in the scope of work specified in the contract.

## 4) Cost Incentive Contracts

- A) General. A cost-incentive type of contract provides for the reimbursement to the vendor of allowable costs incurred up to the ceiling amount and establishes a formula whereby the vendor is rewarded for performing at less than target cost (that is, the parties' agreed best estimate of the cost of

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

performing the contract will vary inversely with the actual, allowable costs of performance and consequently is dependent on how effectively the vendor controls cost in the performance of the contract).

- B) **Fixed-Price Cost-Incentive Contract.** In a fixed-price cost-incentive contract, the parties establish at the outset a target cost, a target profit (that is, the profit that will be paid if the actual cost of performance equals the target cost), a formula that provides a percentage increase or decrease of the target profit depending on whether the actual cost of performance is less than or exceeds the target cost, and a ceiling price. After performance of the contract, the actual cost of performance is arrived at based on the total incurred allowable costs as provided in the contract. The final contract price is then established in accordance with the formula using the actual cost of performance. The final contract price may not exceed the ceiling price. The vendor is obligated to complete performance of the contract, and, if actual costs exceed the ceiling price, the vendor suffers a loss.

- C) **Cost-Reimbursement Contract with Cost-Incentive Fee.** In a cost-reimbursement contract with cost-incentive fee, the parties establish at the outset a target cost; a target fee; a formula for increase or decrease of fee depending on whether actual cost of performance is less than or exceeds the target cost, with maximum and minimum fee limitations; and a cost ceiling that represents the maximum amount that the State is obligated to reimburse the vendor. The vendor continues performance until the work is complete or costs reach the ceiling specified in the contract, including any modification thereof, whichever first occurs. After performance is complete or costs reach the ceiling, the total incurred, allowable costs reimbursed as provided in the contract are applied to the formula to establish the incentive fee payable to the vendor.

- e) **Performance Incentive Contracts**  
In a performance incentive contract, the parties establish at the outset a pricing basis for the contract, performance goals, and a formula that varies the profit or the fee if the specified performance goals are exceeded or not met. For example, early completion may entitle the vendor to a bonus, while late completion may entitle the State to a price decrease.

- f) **Time and Materials Contracts; Labor Hour Contracts**  
Time and materials contracts provide an agreed basis for payment for materials supplied and labor performed. Labor hour contracts provide only for the payment of labor performed. Such contracts shall, to the extent possible, contain a stated ceiling or an estimate that shall not be exceeded without prior State approval.

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

- g) **Definite Quantity and Indefinite Quantity Contracts**

- 1) **Definite Quantity.** A definite quantity contract is a fixed-price contract that provides for delivery of a specified quantity of supplies or services either at specified times or when ordered.
- 2) **Indefinite Quantity.** An indefinite quantity contract is a contract for an indefinite amount of supplies or services to be furnished at specified times, or as ordered, that establishes unit prices of a fixed-price type. Generally an approximate quantity or the best information available as to quantity is stated in the solicitation. The contract may provide a minimum quantity the State is obligated to order and may also provide for a maximum quantity provision that limits the State's obligation to order.
- 3) **Requirements Contracts.** A requirements contract is an indefinite quantity contract for supplies or services that specifically obligates the State to order all the actual requirements of designated State agencies during a specified period of time.

- h) **Leases**

A lease is a contract for the use of supplies or real property under which title will not pass to the State at any time, except pursuant to an option to purchase.

- i) **Recovery Contracts**

Contracts may provide for payment to the vendor of a percentage of the amount the vendor recovers or collects on behalf of the State. The percentage may be fixed or may vary depending on amount of recovery or other factors, and the percentage may be paired with a fixed price or cost reimbursement method.

- j) **Option Provisions**

- 1) **Contract Provision.** When a contract is to contain an option for renewal, extension, or purchase, notice of such provision shall be included in the solicitation. These options may be exercised without taking other procurement action when the option is established for exercise at the OG's option, and there is no material change in the terms and conditions or any such change is dependent on a fixed formula or standard established in the original contract.

- 2) **Lease with Purchase Option.** A purchase option in a lease may be exercised only if the lease containing the purchase option was awarded under competitive sealed bidding or competitive sealed proposals, the leased supply or facility is the only supply or facility that can meet the State's requirements, the purchase option price is less than the small purchase limit or emergency conditions exist.

- k) **State Produced Supplies and Services**

Notwithstanding any provision in any contract, supplies or services available from the State's own programs, such as Correctional Industries, may be ordered without violating any contract.

- 1) **Extraordinary Quantities**

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

Notwithstanding any provision in any contract, the State reserves the right to take bids separately if a particular quantity requirement arises that exceeds the State's normal needs or ordering requirements.

- m) Energy Conservation
- The CPO may authorize an IFB, RFP or sole source negotiation for energy conservation measures whereby the OG would make payment based on utility cost savings. Such contract shall require a clearly defined baseline of energy usage and method of measuring cost savings taking into account at least differing weather conditions, changes in facility, usage and cost of energy.

## SUBPART J: DURATION OF CONTRACTS

### Section 1500.2060 Duration of Contracts - General EMERGENCY

- a) General
- 1) A multi-term contract for a term up to 10 years is authorized when determined by the Procurement Officer to be in the best interest of the State.
  - 2) The length of the payment term of bonds issued by or on behalf of a State agency shall be limited as provided in the statute authorizing the issuance of the bonds.
  - 3) A software license may have a term longer than 10 years, including for a perpetual term, provided the payment term is limited to no more than 10 years.
- b) The contractual obligation of both parties in each fiscal period succeeding the first is subject to appropriation and availability of funds. The contract shall provide that, in the event that funds are not available for any succeeding fiscal period, the remainder of such contract shall be canceled without penalty to, or further payment being required by, the State. This provision applies to only those contracts that are funded in whole or in part by funds appropriated by the Illinois General Assembly or other governmental entity.
- c) Conditions for Use of Multi-Term Contracts
- A multi-term contract may be used when:
- 1) special production of definite quantities or the furnishing of long-term services is required to meet State needs; or
  - 2) a multi-term contract will serve the best interests of the State by encouraging effective competition or otherwise promoting economies in State procurement.
- d) Multi-Term Contract Procedure
- The solicitation shall state:
- 1) the proposed term;
  - 2) the amount of supplies or services required for the proposed contract period;
  - 3) the type of pricing requested (e.g., firm for term);
  - 4) how award will be determined.

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

## e) Renewals

- 1) When the original procurement specifically called for an initial term plus renewals, the renewals may be exercised without further procurement activity, provided the initial term and the exercised renewals may not exceed 10 years, the terms and conditions do not change except as provided in the contract (such as price escalations tied to an index) and the option is reserved solely to the State. A renewal option that requires modification to a material term or condition of the contract shall be treated as a new contract and shall be subject to competitive procurement procedures established by the Code and this Part.
- 2) When the original procurement was silent as to renewals, the renewal must be procured using one of the methods of source selection authorized by the Code and this Part. This renewal shall start a new term not to exceed 10 years.
- 3) Where a renewal will result in the total term, counting the initial term and any previous renewals, to exceed 10 years, the renewal must be procured using one of the methods of source selection authorized by the Code and this Part. This renewal will start a new term that shall not exceed 10 years.

## SUBPART K: CONTRACT MATTERS

### Section 1500.2560 Prevailing Wage EMERGENCY

- a) For the following classifications and if competition exists, no bidder will be awarded a contract unless its employees are paid wages and benefits and are working under conditions prevalent in the location where the work is to be performed.
- 1) Public works
  - 2) Printing
  - 3) Janitorial services, window washing and security guard services having a monthly contract price of \$200 or a yearly price of \$2,000.
- b) Prevailing wage and conditions prevalent means the hourly wage rate, overtime, holiday pay, pension, welfare, premium differential, vacation pay and other benefits received by employees and the environmental conditions under which they work.
- c) Prevailing Wage Rates
- 1) Prevailing wage rates, benefits and conditions will be those in effect on the first date of the contract, provided that, if the rate changes during the contract term and the amount of change is known before execution of the contract, then the contract rate will vary in like amount.
  - 2) If the change in the collective bargaining agreement cannot be determined in advance, the contract will be changed by the amount of the change in wage rate and all components of price that are



## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

dependent on the usage rate, such as payroll taxes, worker's compensation insurance, vacation, sick days, and pension, provided that profit shall not increase due to prevailing wage increases. The using agency shall have the option to cancel the contract if the new price is unacceptable.

- 3) If the initial prevailing wage, etc., cannot be determined prior to execution, contracts may be entered into and will remain valid for the stated term.
- d) If a collective bargaining agreement is in effect governing the type of printing, janitorial, window washing or security guard service sought, that agreement will define minimum wages, benefits and conditions that must be paid in order for a bidder to be considered responsible.
- e) For public works, location means the county where the physical work upon public works is performed, except that if there is not available in the county a sufficient number of competent skilled laborers, workers and mechanics to construct the public works efficiently and properly, "locality" includes any other county nearest the one in which the work or construction is to be performed and from which such persons may be obtained in sufficient numbers to perform the work.
- f) For printing contracts, location means one of the following areas:
  - 1) Cook County;
  - 2) Boone, Bureau, Carroll, Champaign, DeKalb, DeWitt, DuPage, Ford, Fulton, Grundy, Hancock, Henderson, Henry, Iroquois, Jo Daviess, Kane, Kankakee, Kendall, Knox, Lake, LaSalle, Lee, Livingston, Logan, Marshall, Mason, McDonough, McHenry, McLean, Mercer, Ogle, Peoria, Platt, Putnam, Rock Island, Schuyler, Stark, Stephenson, Tazewell, Vermilion, Warren, Whiteside, Will, Winnebago, and Woodford counties;
  - 3) Adams, Alexander, Bond, Brown, Calhoun, Cass, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Franklin, Gallatin, Greene, Hamilton, Hardin, Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Macon, Macoupin, Madison, Marion, Massac, Menard, Monroe, Montgomery, Morgan, Moultrie, Perry, Pike, Pope, Pulaski, Randolph, Richland, Saline, Sangamon, Scott, Shelby, St. Clair, Union, Wabash, Washington, Wayne, White, and Williamson counties.
  - 4) Where the printing is performed in a plant outside the jurisdiction of this State, it shall be deemed produced in the Illinois locality in which delivery of the printing ordered is required to be made. Where such printing is required to be delivered to more than one Illinois locality, such printing shall be deemed produced in the Illinois locality to which the largest dollar volume of printing under the contract is to be delivered.
- g) For janitorial services, window washing and security guard services, location means the county in which the work is to be performed.
- h) Prevailing wages, benefits and conditions will be determined by the Illinois Department of Labor.

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

### Section 1500.2570 Equal Employment Opportunity; Affirmative Action EMERGENCY

- a) Public Contracts. Every party to a public contract and every eligible bidder shall:
  - 1) Refrain from unlawful discrimination and discrimination based on citizenship status in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination;
  - 2) Comply with the procedures and requirements of the Department of Human Rights (DHR) regulations concerning equal employment opportunities and affirmative action;
  - 3) Provide such information, with respect to its employees and applicants for employment, and assistance as DHR may reasonably request;
  - 4) Have written sexual harassment policies that shall include, at a minimum, the following information:
    - A) the illegality of sexual harassment;
    - B) the definition of sexual harassment under State law;
    - C) a description of sexual harassment, utilizing examples;
    - D) the vendor's internal complaint process, including penalties;
    - E) the legal recourse, investigative and complaint process available through DHR and the Human Rights Commission;
    - F) directions on how to contact DHR and the Commission; and
    - G) protection against retaliation as provided by Section 6-101 of the Illinois Human Rights Act (IHRA) [775 ILCS 5]. A copy of the policies shall be provided to the Department of Human Rights upon request.
- b) Section 7-105A of the IHRA authorizes the Department of Human Rights to promulgate policies, rules and regulations to implement the provisions of the IHRA applicable to eligible bidders and public contractors. DHR has promulgated rules, 44 Ill. Adm. Code 750, that establish public contractor and eligible bidder duties, obligations, and reporting requirements. These rules require that certain employers register with DHR in order to be eligible for the award of certain public contracts (44 Ill. Adm. Code 750.Appendix A).

## SUBPART L: CONTRACT PRICING

### Section 1500.2800 All Costs Included EMERGENCY

The IFB or RFP and any resulting contract should define whether prices cover transportation, transit insurance, delivery, installation, taxes, and any other costs.

## SUBPART M: PREFERENCES

OFFICE OF THE GOVERNOR  
NOTICE OF EMERGENCY RULES

**Section 1500.4505 Procurement Preferences  
EMERGENCY**

The procurement preferences identified in Article 45 of the Code must be considered in developing procurement documents, conducting evaluations and drafting contracts.

**Section 1500.4510 Resident Bidder Preference  
EMERGENCY**

- a) "Illinois resident vendor" as used in this Section means a person authorized to transact business in this State and having a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract was first advertised or announced, including a foreign corporation duly authorized to transact business in this State that has a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract is first advertised or announced.
- b) In breaking a tie, an Illinois resident vendor shall be given the award.
- c) In all procurements involving out-of-state vendors, the CPO shall consult a list of states with in-state preference that shall be maintained by CMS.

**Section 1500.4530 Correctional Industries  
EMERGENCY**

- a) The CPO shall consult a listing, maintained by CMS, of supplies or services available from the Department of Corrections.
- b) Procurement Officers are authorized to procure from Corrections without seeking competition or giving public notice.

**Section 1500.4535 Sheltered Workshops for the Disabled  
EMERGENCY**

- a) Use of Sheltered Workshop  
The Procurement Officer may determine to contract with a sheltered workshop on the list maintained by CMS, and may do so without notice or competition.
- b) Conditions for Use  
The CPO shall, in consultation with the State Use Committee created by the Code (Section 45-35), determine which articles, materials, services, food stuffs and supplies that are produced or manufactured by persons with disabilities in State use sheltered workshops shall be given preference by purchasing agencies procuring those items. The CPO shall use procedures established by CMS for implementing this

OFFICE OF THE GOVERNOR  
NOTICE OF EMERGENCY RULES

Section.

- c) Sheltered Workshop List  
The CPO shall use the list of all qualified sheltered workshops and the supplies and services each qualified sheltered workshop provides, which is maintained by CMS.
- d) Pricing Approval

- 1) While notice and competition is not required prior to contracting with a sheltered workshop, prices must be reasonable. Whether a price is reasonable will be determined based upon current market prices, historical prices, prices received by other State agencies for similar supplies or services, the policy of the Code to promote procurements from sheltered workshops, and other such relevant factors.

- 2) The State Use Committee, established under Section 45-35 of the Code, must approve contracts for reasonableness of price if:

- A) the supply or service would ordinarily be subject to competitive sealed bidding or competitive sealed proposals methods of source selection; or
  - B) the supply or service is bid and the sheltered workshop is selected even though not the lowest responsible bidder.
- 3) State Use Committee approval is not required if:
    - A) the contract does not exceed the bid limit set in Section 1500.2020 of this Part and no bidding was conducted; or
    - B) the contract is let to the sheltered workshop under a competitive procedure.
  - 4) When Committee approval is required, it will be given or denied in an expeditious manner so as not to disrupt procurement activities. Consideration will be at regularly scheduled meetings or through special telephone meetings conducted between regular meetings.

**Section 1500.4540 Small Business  
EMERGENCY**

- a) Set-Aside

The CPO may determine categories of supplies or service procurements that will be set aside for small business. The set-aside designation may be made for current and future procurements of a specific supply, service or construction, or for a class of like supplies, services or construction. A set-aside designation may last indefinitely or for a stated period of time.

- b) Small Business List

The CPO may use the list, maintained by CMS or other appropriate State agency, of responsible vendors that meet the criteria of small business. A business that fits the definition of small on the day of bid or proposal opening will be considered small for the duration of the contract.

- c) Required Use

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

If a Procurement Officer wishes to make a procurement covered by a set-aside designation, the solicitation must note responses are limited to those from responsible small businesses. Bids or proposals received from large businesses will be rejected as nonresponsive.

## d) Withdrawal of Set-Aside

If the Procurement Officer determines that acceptance of the best bid or proposal will result in the payment of an unreasonable price, the Procurement Officer shall reject all bids or proposals and withdraw the designation of small business set-aside for the procurement in question. When a small business set-aside is withdrawn, notification shall be published in the Illinois Procurement Bulletin with an explanation. After withdrawal of the small business set-aside, the procurement shall be conducted in accordance with the limitations of the Code and this Part.

## e) Criteria for Small Business

Unless the CPO provides a definition for a particular procurement that reflects industrial characteristics, a small business is one:

- 1) Independently owned and operated.
- 2) Not dominant in its field of operations. This means the business does not exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining dominance, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.
- 3) With annual sales for most recently ended fiscal year no greater than:
  - A) \$7,500,000 for wholesale business;
  - B) \$3,000,000 for construction business; or
  - C) \$1,500,000 for retail business.
- 4) With no more than 250 employees if a manufacturing business.
  - A) A manufacturing business shall calculate how many people it employs by determining its average full-time equivalent employment, based on the number of persons employed on a full-time, part-time, temporary or other basis, for its most recently ended fiscal year.
  - B) If a manufacturing business has been in existence for less than a full fiscal year, its average employment should be calculated for the period through one month prior to the bid or proposal due date.
- 5) If both a wholesaler and a retailer, the combined wholesale and retail annual sales for its most recently completed fiscal year may not exceed \$9,000,000. The retail component may not exceed \$1,500,000 and the wholesale component may not exceed \$7,500,000.
- 6) When computing the size status of a vendor, the number of

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

employees and annual sales and receipts, as applicable, of the vendor and all affiliates shall be included. Concerns are affiliates when either one directly or indirectly controls or has the power to control the other, or when a third party or parties controls or has the power to control both. In determining whether concerns are independently owned and operated and whether affiliation exists, consideration shall be given to all appropriate factors, including use of common facilities, common ownership and management and contractual arrangements. However, a franchise relationship shall not affect small business status if the franchise has the right to profit commensurate with ownership and bears the risk of loss or failure.

- f) Vendors desiring to submit bids or proposals or to otherwise contract for items set aside for small businesses shall submit information verifying that the vendor qualifies as a small business or rely on such procedures established by other State agencies. The CPO may establish procedures for verifying such information.

### Section 1500.4570 Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities EMERGENCY

## a) Introduction

The Business Enterprise Act for Minorities, Females, and Persons with Disabilities [30 ICS 575] (Act) sets a goal (minimum 12%) for contracting with businesses owned or controlled by minorities, females, or persons with disabilities.

- b) Upon direction of the CPO, the OG may establish set-asides and other such preferences for vendors certified under that Act.

## c) Certification

Certification procedures are set forth in rules governing the Business Enterprise Act (44 Ill. Adm. Code 10).

- d) The CPO may refer to the list of businesses that have been certified and maintained by CMS.

## SUBPART N: ETHICS

### Section 1500.5013 Conflicts of Interest EMERGENCY

- a) This Section does not apply to those elected to local government, including school districts, nor does it apply to those elected to Federal offices in this State. This Section does apply to those elected to an office of Illinois State government.
- b) An individual has a direct pecuniary interest in a contract when the individual is owed a payment or otherwise receives a direct financial benefit in conjunction with performance of a contract, including finders fees and commission payments.



## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

- c) Distributable income means the income of a company after payment of all expenses, including employee salary and bonus, and retained earnings, which is distributed to those entitled to receive a share of such income.
- d) This Section does not apply to contracts with licensed professionals provided such contracts are competitively bid. For purposes of this Section, "bid" means procured pursuant to the competitive procedures identified in Subpart E of this Part.

#### Section 1500.5015 Negotiations for Future Employment EMERGENCY

- a) *It is unlawful for any person employed in or on a continual contractual relationship with any of the offices or agencies of State government to participate in contract negotiations on behalf of that office or agency with any firm, partnership, association, or corporation with whom that person has a contract for future employment or is negotiating concerning possible future employment.* [30 ILCS 500/50-15(a)]
- b) An individual who performs services pursuant to a contract and who meets the requirements of an "employee" as opposed to an independent contractor is in a "continued contractual relationship" from the effective date of the contract until such time as the contract is terminated.
- c) An individual who performs services pursuant to a contract and who meets the requirements of an "independent contractor" as opposed to an "employee" is in a "continual contracted relationship" if the contract term is indefinite, is automatically renewed, is renewable at the individual's option, is renewable unless the State must act to terminate, or has a definite term of at least three months.

#### Section 1500.5020 Exemptions EMERGENCY

If the Procurement Officer finds a conflict of interest under Section 50-13 of the Code with the vendor selected for award or contract negotiations, the Procurement Officer, if other than the CPO, shall forward to the CPO the name of the vendor and a description of the proposed contract and of the potential conflict, and shall state why an exemption should be granted. The CPO shall submit the files to the Board of Ethics for its determination and with the approval of the CPO, the Board of Ethics may exempt named individuals from the prohibitions of Section 50-13 of the Code when, in its judgment, the public interest in having the individual in the service of the State outweighs the public policy evidenced in that Section. [30 ILCS 500/50-20]

#### Section 1500.5030 Revolving Door EMERGENCY

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

Effective January 15, 1999, the CPO shall identify in writing their designees whose job or position descriptions are at least 51% directly related to State procurement. They shall maintain that information for a period of at least two years following the end or revocation of the designation.

#### Section 1500.5035 Disclosure of Financial Interests and Potential Conflicts of Interest EMERGENCY

- a) Distributable or distributive income means the income of a company after expenses, including employee salaries and bonuses, and retained earnings, which is distributed to those entitled to receive a share of such income.
- b) Personal services shall be any contract for services subject to this Code, including, for example, professional and artistic services, repair services, cleaning and guard services.
- c) "Competitively bid" means a contract let pursuant to Section 20-10 of the Code.
- d) "Subject to federal 10K reporting" means subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934. "10K disclosure" means a report required under Section 13 or 15(d) of the Securities Exchange Act of 1934.
- e) Once a disclosure is made in relation to a particular contract, the disclosure need not be repeated if the contract is amended.
- f) 10K Disclosures
- 1) Any vendor subject to federal 10K reporting requirements may submit its 10K to the State in satisfaction of the disclosure requirement of Section 50-35(b) of the Code provided the vendor also identifies the specific sections or parts in the 10K disclosure where the State may find information, if any, pertaining to those who have an ownership interest or an interest in the distributable income of the vendor or its parent, or other information that the vendor knows or reasonably should know identifies a potential conflict of interest with the State. If the financial interest or conflict of interest information requested by the State is not in the 10K, but is in a document referenced in the 10K, or in a document that may be submitted to the SEC in conjunction with or in lieu of the 10K, then that additional documentation shall be provided as well.
  - 2) 10K disclosures are available for public review. Any potential conflict of interest identified by the public and brought to the attention of the CPO or SPO shall be investigated.
  - 3) In circumstances where a vendor may submit a 10K disclosure in lieu of the specific disclosure requirements of the Code and for purposes of the Procurement Officer's duty to consider any conflict or potential conflict of interest that may exist, but that is not subject to specific disclosure requirements of the Code and this Part, and that is not personally known by the

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

Procurement Officer, the duty of the Procurement Officer "publicly known or reasonably available to the public" shall be satisfied by taking into consideration information identified by the vendor in the 10K disclosure and any information disclosed pursuant to public review of the 10K disclosure.

## SUBPART O: COMPLAINTS, PROTESTS AND REMEDIES

**Section 1500.5510 Complaints Against Vendors****EMERGENCY**

- a) The purpose of this Section is to document performance of vendors.
- b) Whenever a vendor fails to meet contract requirements, including but not limited to failure to deliver on time or meet specifications, the OG shall take appropriate action to initiate a complaint to the vendor.
- c) For relatively minor infractions, the OG may initiate contact by telephone or in person. If not resolved by this action, a written complaint shall be made.
- d) For other infractions, the OG shall send a written complaint to the vendor detailing the problem.
- e) A copy of all written complaints and the resolution or status shall be filed with CMS.

**Section 1500.5520 Suspension****EMERGENCY**

- a) Application  
This Section applies to all debarments or suspensions of vendors from consideration for award of contracts under this Part or the Code.
- b) The OG may recommend to CMS that a vendor be suspended from doing business with the State, with one or more agencies, or for specific types of supplies or services. A suspension may be issued by CMS upon a showing the vendor violated the Code or this Part, or failed to conform to specifications or terms of delivery.
- c) When CMS finds cause exists for suspension, a notice of suspension, including a copy of such determination, shall be sent to the suspended vendor. Bids or proposals will not be solicited from the suspended vendor, and, if received, will not be considered during the period of suspension.
- d) A vendor may be suspended for a period of time commensurate with the seriousness of the offense, but for no more than five years. The suspension will be effective seven calendar days after receipt of notice unless an objection is filed. If an objection is filed, suspension would not become effective until the evaluation of the objection is completed.
- e) CMS may debar a vendor. Debarment is the permanent suspension of a vendor from doing business with the State. A debarment may only take

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

place in those instances involving bribery or attempted bribery of a State of Illinois officer or employee, or as otherwise allowed or required by law. Bids or proposals received from the debarred vendor will not be considered.

- f) CMS shall maintain a master list of all suspensions and debarments. The master list will retain information concerning suspensions and debarments as public records. Such records will be maintained for a period of at least three years following the end of the suspension or debarment. Such public information may be considered in determining responsibility.

**Section 1500.5530 Resolution of Contract Controversies****EMERGENCY**

- a) Authority to Resolve Controversies  
The Procurement Officer shall have authority to resolve controversies.
- b) Authority of the OG  
The OG has the authority to accept delivery of supplies or services in accordance with contract requirements as satisfactory adjustment of a complaint.
- c) Substitution of Terms/Price Reduction  
If the vendor proposes to make an adjustment by:
  - 1) substituting an alternative specification, or
  - 2) reducing the contract price by a certain amount to compensate for some failure to provide full performance under the contract, such proposal must be referred to and approved by the Procurement Officer.
- d) Cancellation for Breach of Contract  
In any of the following cases the Procurement Officer shall have the right to terminate or rescind any contract entered into under this Part:
  - 1) In the event the successful bidder fails to furnish a satisfactory performance bond within the time specified.
  - 2) In the event the vendor fails to make delivery at the place or within the time specified in the contract or as ordered by the OG.
  - 3) In the event any supplies or services provided under the contract are rejected (for not meeting specification, not conforming to sample, or not being in good condition when delivered) and are not promptly replaced by the vendor. If there are repeated rejections of the vendor's supplies or services, this shall be grounds for termination or rescission, even though the vendor offers to replace the supplies or services promptly.
  - 4) In the event the vendor is guilty of misrepresentation (for example, misbranding of food or drugs) in connection with another contract for the sale of supplies or services to the OG such that the vendor cannot reasonably be depended upon to fulfill his obligations as a responsible vendor under any of his contracts

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

with the OG.

- 5) In the event the vendor should be adjudged bankrupt; enter into receivership or make a general assignment for the benefit of creditors due to insolvency; disregard laws, rules, or instructions of the Procurement Officer; or act in violation of any provision of the contract; or if the contract conflicts with any statutory or constitutional provision of the State of Illinois or of the United States.
- 6) In the event of any other breach of contract or other unlawful act by the vendor.
- e) Cancellation for Fraud, Collusion, Illegality, Etc. The OG may cancel any contract it established if there is sufficient evidence to show that:
  - 1) The contract was obtained by fraud, collusion, conspiracy, or other unlawful means; or
  - 2) The contract conflicts with any statutory provision of the State of Illinois or of the United States.
- f) Withholding Money to Compensate State for Damages
 

If a contract is terminated or rescinded under this Section, the OG may deduct from whatever is owed the vendor on that or any other contract an amount sufficient to compensate the State of Illinois for any damages suffered by it because of the vendor's breach of contract or other unlawful act on the vendor's part on which the cancellation is based.
- g) Damages
 

The damages for which the OG may be compensated as provided in this Section or by a suit on the vendor's performance bond or by other legal remedy shall include, but are not limited to, the following:

  - 1) the additional cost of supplies or services bought elsewhere;
  - 2) cost of repeating the procurement procedure;
  - 3) any expenses incurred because of delay in receipt of supplies or services; and
  - 4) any other damages caused by the vendor's breach of contract or unlawful act.

## Section 1500.5540 Violation of Law or Rule

## EMERGENCY

- a) Determination that Solicitation or Award Violates Law
 

If the Purchasing Officer finds that the solicitation or proposed award is in violation of statute or rule, the Purchasing Officer may cancel the solicitation or proposed award, or make modifications to correct the violation, if such correction may be legally accomplished.
- b) Determination that Contract Violates the Code or this Part
 

Contracts based on awards or solicitations that were in violation of law shall be terminated at no cost to the OG unless statute or rule allows the OG to modify, ratify or take other corrective action.

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

- c) Effect of Declaring a Contract Null and Void
 

In all cases in which a contract is voided, the OG shall endeavor to return those supplies delivered under the contract that have not been used or distributed. No further payments shall be made under the contract.

## Section 1500.5550 Protests

## EMERGENCY

- a) Protest Resolution by the Procurement Officer
 

An actual or prospective bidder, offeror, or vendor that may be aggrieved in connection with a procurement may file a protest on any phase of solicitation or award, including but not limited to specifications preparation, bid solicitation, or award.
- b) Complaint to Procurement Officer
 

Complainants should seek resolution of their complaints initially with the office that issued the solicitation. Such complaints may be made verbally or in writing.
- c) Filing of Protest
  - 1) Protests shall be made in writing to the Procurement Officer, if applicable, and shall be filed within 14 days after the protester knows or should have known of the facts giving rise to the protest. A protest is considered filed when physically received by the Procurement Officer. Protests filed after the 14 day period shall not be considered. In regard to a protest regarding specifications, the protest must be received within 14 days after the date the solicitation was issued, and in any event must be received by the OG at the designated address before the date for opening of bids or proposals.
  - 2) To expedite handling of protests, the envelope should be labeled "Protest". The written protest shall include as a minimum the following:
    - A) the name and address of the protester;
    - B) appropriate identification of the procurement, and, if a contract has been awarded, its number;
    - C) a statement of reasons for the protest; and
    - D) supporting exhibits, evidence, or documents to substantiate any claims unless not available within the filing time, in which case the expected availability date shall be indicated.
- d) Requested Information; Time for Filing
 

Any additional information requested by the OG shall be submitted within the time periods established by the requesting source in order to expedite consideration of the protest. Failure of the protesting party to comply expeditiously with a request for information by the Procurement Officer may result in resolution of the protest without consideration of that information.
- e) Stay of Procurements During Protest



## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

When a protest has been timely filed and before an award has been made, the Procurement Officer shall make no award of the contract until the protest has been resolved. If timely received but after award, the award shall be revoked without penalty and no award made until the protest has been resolved. In either case the Procurement Officer may make the award or reinstate the award upon a determination that the needs of the OG require an immediate award and performance under the contract.

## f) Decision by the Procurement Officer

A decision on a protest shall be made by the Procurement Officer as expeditiously as possible after receiving all relevant, requested information. If a protest is sustained, the available remedies include, but are not limited to, reversal of award and cancellation or revision of the solicitation.

## g) Effect of Judicial or Administrative Proceedings

If an action concerning the protest has commenced in court, the Procurement Officer shall not act on the protest, but shall refer the protest to the Attorney General unless otherwise directed by the Attorney General.

## SUBPART P: GOVERNMENTAL JOINT PURCHASING

Section 1500.6500 General  
EMERGENCY

In an effort to make the procurement process more efficient, OG and other governmental units (including not-for-profit entities authorized by law to participate in joint purchasing) may agree to utilize each others' procurement contracts. This authority is governed by this Subpart and the Governmental Joint Purchasing Act [30 ILCS 525]. Only the CPO may enter into contracts under the Act when the OG is a party to the contract.

Section 1500.6510 No Agency Relationship  
EMERGENCY

In any joint procurement situation, the other governmental unit must issue its own purchase order, accept its own deliveries and make its own payments. The State of Illinois shall have no obligation to the vendor for payment of orders placed by other governmental units.

Section 1500.6520 Obligations of Participating Governmental Units  
EMERGENCY

If governmental units determine to use contracts established by the OG or by CMS on behalf of the OG, they must:

- a) provide to the CPO a copy of the ordinance or resolution passed by the governing body of the governmental unit giving authority to make purchases from contracts issued by the State of Illinois;

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

- b) make all purchases under the State contracts for public use only and specifically prohibit personal use or consumption by any individual, public employee or official;
- c) make payment to the vendor within 30 days after receipt of supplies or services;
- d) place orders with the supplier directly using their own purchase order forms. A copy of the purchase order must also be sent to the CPO. This copy will be used for statistical purposes and will serve as notice that the governmental unit has complied with the bid action;
- e) inspect all items immediately for compliance with the contract specifications and report to the CPO any failure of suppliers to comply with contract requirements; and
- f) attempt to resolve disputes with the vendor before involving the CPO.

## SUBPART Q: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section 1500.7000 Severability  
EMERGENCY

If any provision of this Part or any application thereof is held invalid, such invalidity shall not affect other provisions or applications of this Part that can be given effect without such invalid provision or application.

Section 1500.7010 Government Furnished Property  
EMERGENCY

If the OG provides any property to the vendor in furtherance of the contract, such property shall remain the property of the State but may be consumed by the vendor if necessary to complete the contract. Vendor will issue a receipt for the property and will be responsible for its safekeeping and for return of unused property to the State.

Section 1500.7015 Inspections  
EMERGENCY

## a) Inspection of Plant or Site

The OG may enter, or authorize CMS to enter, a vendor's or subcontractor's plant or place of business to:

- 1) inspect supplies or services for acceptance by the State pursuant to the terms of a contract;
- 2) audit the books and records of any vendor or subcontractor pursuant to Section 1500.7020 (Records and Audits) of this Part;
- 3) investigate an action to debar or suspend a person from consideration for award of contracts pursuant to the Code;
- 4) determine whether the standards of responsibility have been met or are capable of being met;
- 5) determine if the contract is being performed in accordance with its terms; and

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

- 6) accomplish any other purpose permitted by law.
- b) Inspection and Testing of Supplies and Services
  - 1) Solicitation and Contractual Provisions. Contracts of the OG may provide for the inspection of supplies and services at the vendor's or subcontractor's facility and the performance tests to determine whether the supplies or services conform to solicitation requirements, or, after award, to contract requirements, and are therefore acceptable. Such inspections and tests shall be conducted in accordance with the terms of the solicitation and contract and may be conducted by CMS on behalf of the OG.
  - 2) Procedures for Trial Use and Testing. The Procurement Officers may establish operational procedures, or may rely on such procedures established by CMS, governing the testing and trial use of equipment, material, and other supplies by the OG, and the application of resulting information and data to specifications or procurements.
  - c) Conduct of Inspections
    - 1) Inspectors. Inspections or tests shall be performed so as not to unduly delay the work of the vendor or subcontractor. No inspector other than the Procurement Officer may change any provision of the specifications or the contract without written authorization of the Procurement Officer. The presence or absence of an inspector shall not relieve the vendor or subcontractor from any requirements of the contract.
    - 2) Location. When an inspection is made in the plant or place of business of a vendor or subcontractor, such vendor or subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.
    - 3) Time. Inspection or testing of supplies and services performed at the plant or place of business of any vendor or subcontractor shall be performed at reasonable times.
    - d) Inspection of Construction Projects
 

On-site inspection of construction shall be performed in accordance with the terms of the contract.

## Section 1500.7020 Records and Audits

## EMERGENCY

- a) Retention of Books and Records
 

Books and records that relate to performance of a contract, including subcontracts, and that support amounts charged to the OG, shall be maintained:

  - 1) by a vendor, for three years from the date of final payment under the prime contract;
  - 2) by a subcontractor, for at least three years from the date of final payment under the subcontract; and

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

- 3) by a vendor and subcontractor for such longer period of time as is necessary to complete ongoing or announced audits.
- b) Contract Audit
  - 1) Types of Contracts Audited. The type of contract under which books and records should be audited is that in which price is based on costs or is subject to adjustment based on costs, or that in which auditing would be appropriate to assure satisfactory performance, such as a time and materials contract.
  - 2) Situations in which an audit may be warranted include but are not limited to when a question arises in connection with:
    - A) the financial condition, integrity, and reliability of the vendor or subcontractor;
    - B) any prior audit experience;
    - C) the adequacy of the vendor's or subcontractor's accounting system;
    - D) the number or nature of invoices or reimbursement vouchers submitted by the vendor or subcontractor for payment;
    - E) the use of federal assistance funds;
    - F) the fluctuation of market prices affecting the contract; or
    - G) any other situation in which the Procurement Officer finds that such an audit is necessary for the protection of the State's best interest.

## Section 1500.7025 Written Determinations

## EMERGENCY

- a) Preparation and Execution
 

When the Code or this Part requires a written determination, the officer required to prepare the determination may delegate its preparation, but the responsibility for and the execution of the determination shall not be delegated.
- b) Content
 

Each written determination shall set out sufficient facts, circumstances, and reasoning as will substantiate the specific determination that is made.
- c) Obtaining Supporting Information
 

While an officer is responsible for the execution of the written determination, other State personnel, particularly technical personnel and appropriate personnel in the purchasing agency, are responsible for furnishing to the cognizant official, in an accurate and adequate fashion, the information pertinent to the determination. When requested, such information shall be furnished in writing to the cognizant official who shall have the authority to decide the final form and content of the determination and to resolve any questions or conflicts arising with respect to the determination.
- d) Forms
 

The CPO is authorized to prescribe methods and operational procedures to be used in preparing written determinations.

## OFFICE OF THE GOVERNOR

## NOTICE OF EMERGENCY RULES

## e) Retention

Each written determination shall be filed in the solicitation or contract file to which it applies, shall be retained as part of such file for so long as the file is required to be maintained, and, except as otherwise provided by statute or rule, shall be open to public inspection.

**Section 1500.7030 No Waiver of Sovereign Immunity  
EMERGENCY**

Nothing in this Part shall be deemed to be a waiver of sovereign immunity.

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

1) Heading of the Part: Office of Lt. Governor's Procurement Rules2) Code Citation: 44 Ill. Adm. Code 16003) Section Numbers: Emergency Action:

|           |     |
|-----------|-----|
| 1600.01   | New |
| 1600.05   | New |
| 1600.10   | New |
| 1600.15   | New |
| 1600.25   | New |
| 1600.525  | New |
| 1600.1005 | New |
| 1600.1510 | New |
| 1600.1570 | New |
| 1600.1580 | New |
| 1600.2005 | New |
| 1600.2010 | New |
| 1600.2012 | New |
| 1600.2015 | New |
| 1600.2020 | New |
| 1600.2025 | New |
| 1600.2030 | New |
| 1600.2035 | New |
| 1600.2036 | New |
| 1600.2037 | New |
| 1600.2038 | New |
| 1600.2040 | New |
| 1600.2043 | New |
| 1600.2045 | New |
| 1600.2047 | New |
| 1600.2050 | New |
| 1600.2055 | New |
| 1600.2060 | New |
| 1600.2560 | New |
| 1600.2570 | New |
| 1600.2800 | New |
| 1600.4505 | New |
| 1600.4510 | New |
| 1600.4530 | New |
| 1600.4535 | New |
| 1600.4540 | New |
| 1600.4570 | New |
| 1600.5013 | New |
| 1600.5015 | New |
| 1600.5020 | New |
| 1600.5030 | New |
| 1600.5035 | New |
| 1600.5510 | New |



## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

1600.5520 New  
1600.5530 New  
1600.5540 New  
1600.5550 New  
1600.6500 New  
1600.6510 New  
1600.6520 New  
1600.7000 New  
1600.7010 New  
1600.7015 New  
1600.7020 New  
1600.7025 New  
1600.7030 New

4) Statutory Authority: 30 ILCS 500 and 30 ILCS 525

5) Effective Date of Rule: July 1, 1998

6) If this emergency rule is to expire before end of the 150-day period, please specify the date on which it is to expire: Not applicable

7) Date Filed in Agency's Principal Office: June 30, 1998

8) Reason for Emergency: There was not sufficient time to develop proposed rules that could be processed through normal rulemaking and have the rules effective July 1, 1998.

9) A Complete Description of the Subjects and Issues Involved: Section 1-30 of the Illinois Procurement Code requires that constitutional officers procure their needs in a manner substantially in accordance with the requirements of the Code, and that such officers promulgate rules no less restrictive than the requirements of the Code to govern procurements.

This rulemaking prescribes standard procurement rules for the Office of the Lt. Governor in accordance with the requirements of the Illinois Procurement Code.

10) Are there any proposed amendments to this Part pending? No

11) Statement of Statewide Policy Objectives: Proposed rules contain a Section for joint purchase of supplies and services that would affect local government.

12) Information and questions regarding this amendment shall be directed to:

David Wood  
108 State House  
Springfield, IL 62706

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

(217)782-4520

The full text of the Emergency Rules begins on the next page:

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT  
 SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES  
 CHAPTER XXXIII: OFFICE OF THE LT. GOVERNOR

## PART 1600

## OFFICE OF THE LT. GOVERNOR'S PROCUREMENT RULES

## SUBPART A: GENERAL

Section  
 1600.01 Title  
 EMERGENCY  
 1600.05 Policy  
 EMERGENCY  
 1600.10 Application  
 EMERGENCY  
 1600.15 Definition of Terms Used in This Part  
 EMERGENCY  
 1600.25 Property Rights  
 EMERGENCY

## SUBPART B: PROCUREMENT RULES

Section  
 1600.525 Rules  
 EMERGENCY

## SUBPART C: PROCUREMENT AUTHORITY

Section  
 1600.1005 Exercise of Procurement Authority  
 EMERGENCY

## SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section  
 1600.1510 Illinois Procurement Bulletin  
 EMERGENCY  
 1600.1570 Error in Notice  
 EMERGENCY  
 1600.1580 Direct Solicitation  
 EMERGENCY

## SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section  
 1600.2005 General Provisions

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

EMERGENCY  
 1600.2010 Competitive Sealed Bidding  
 EMERGENCY  
 1600.2012 Multi-Step Sealed Bidding  
 EMERGENCY  
 1600.2015 Competitive Sealed Proposals  
 EMERGENCY  
 1600.2020 Small Purchases  
 EMERGENCY  
 1600.2025 Sole Economically Feasible Source Procurement  
 EMERGENCY  
 1600.2030 Emergency Procurements  
 EMERGENCY  
 1600.2035 Competitive Selection Procedures for Professional and Artistic Services  
 EMERGENCY  
 1600.2036 Other Methods of Source Selection  
 EMERGENCY  
 1600.2037 Tie Bids and Proposals  
 EMERGENCY  
 1600.2038 Mistakes  
 EMERGENCY  
 1600.2040 Cancellation of Solicitations; Rejection of Bids or Proposals  
 EMERGENCY

## SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section  
 1600.2043 Suppliers  
 EMERGENCY  
 1600.2045 Responsibility  
 EMERGENCY

## SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

Section  
 1600.2047 Security Requirements  
 EMERGENCY

## SUBPART H: SPECIFICATIONS

Section  
 1600.2050 Specifications  
 EMERGENCY

## SUBPART I: CONTRACT TYPE

Section

OFFICE OF THE LT. GOVERNOR  
NOTICE OF EMERGENCY RULES

1600.2055 Types of Contracts  
EMERGENCY

Section  
1600.2060 Duration of Contracts - General  
EMERGENCY

SUBPART J: DURATION OF CONTRACTS

Section  
1600.2560 Prevailing Wage  
EMERGENCY  
1600.2570 Equal Employment Opportunity; Affirmative Action  
EMERGENCY

SUBPART K: CONTRACT MATTERS

Section  
1600.2800 All Costs Included  
EMERGENCY

SUBPART L: CONTRACT PRICING

Section  
1600.4505 Procurement Preferences  
EMERGENCY  
1600.4510 Resident Bidder Preference  
EMERGENCY  
1600.4530 Correctional Industries  
EMERGENCY  
1600.4535 Sheltered Workshops for the Disabled  
EMERGENCY  
1600.4540 Small Business  
EMERGENCY  
1600.4570 Contracting with Businesses Owned and Controlled by Minorities,  
Females and Persons with Disabilities  
EMERGENCY

SUBPART M: PREFERENCES

Section  
1600.5013 Conflicts of Interest  
EMERGENCY  
1600.5015 Negotiations for Future Employment  
EMERGENCY  
1600.5020 Exemptions

SUBPART N: ETHICS

OFFICE OF THE LT. GOVERNOR  
NOTICE OF EMERGENCY RULES

EMERGENCY  
1600.5030 Revolving Door  
EMERGENCY  
1600.5035 Disclosure of Financial Interests and Potential Conflicts of  
Interest  
EMERGENCY

SUBPART O: COMPLAINTS, PROTESTS AND REMEDIES

Section  
1600.5510 Complaints Against Vendors  
EMERGENCY  
1600.5520 Suspension  
EMERGENCY  
1600.5530 Resolution of Contract Controversies  
EMERGENCY  
1600.5540 Violation of Law or Rule  
EMERGENCY  
1600.5550 Protests  
EMERGENCY

SUBPART P: GOVERNMENTAL JOINT PURCHASING

Section  
1600.6500 General  
EMERGENCY  
1600.6510 No Agency Relationship  
EMERGENCY  
1600.6520 Obligations of Participating Governmental Units  
EMERGENCY

SUBPART Q: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section  
1600.7000 Severability  
EMERGENCY  
1600.7010 Government Furnished Property  
EMERGENCY  
1600.7015 Inspections  
EMERGENCY  
1600.7020 Records and Audits  
EMERGENCY  
1600.7025 Written Determinations  
EMERGENCY  
1600.7030 No Waiver of Sovereign Immunity  
EMERGENCY

AUTHORITY: The Illinois Procurement Code [30 ILCS 500] (see P.A. 90-572).



## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

SOURCE: Adopted by emergency rulemaking at 22 Ill. Reg. **12893**, effective July 1, 1998, for a maximum of 150 days.

## SUBPART A: GENERAL

**Section 1600.01 Title**  
**EMERGENCY**

This Part may be cited as the Office of the Lt. Governor's Procurement Rules.

**Section 1600.05 Policy**  
**EMERGENCY**

All procurements by the Office of the Lt. Governor (OLG) shall be accomplished in the most economical, expeditious and commercially reasonable manner that is in accordance with statute, this Part and other applicable rules.

**Section 1600.10 Application**  
**EMERGENCY**

- a) Articles 1, 15, 20, 25, 35, 40, 45, 50, and 53 of the Illinois Procurement Code [30 ILCS 500] (the Code) will be referenced herein as though applicable to the OLG, and all procurements of goods or services conducted by the OLG or by CMS on behalf of the OLG shall be substantially in accordance with those provisions of the Code, except to the extent otherwise provided in this Part.
- b) For the purposes of the Code and this Part, any reference to Chief Procurement Officer (CPO) means the Lt. Governor or his designee except that for the purpose of issuing State debt, the Director of the Bureau of the Budget shall be the CPO. The Lt. Governor may appoint one or more Chief Procurement Officer(s).
- c) The Code and this Part apply to those procurements for which the vendors were first solicited on or after July 1, 1998.
- d) Procurements for which vendors were first solicited on or before June 30, 1998, shall be conducted pursuant to legal requirements in effect at the time of the solicitation. The terms and conditions and the rights and obligations under contracts resulting from such procurements shall not be impaired.
- e) A solicitation occurs on or before June 30, 1998, as follows:
  - 1) When advertising was required in the Official State Newspaper, the first advertisement must run no later than June 30, 1998.
  - 2) When advertising was not required:
    - A) if the procurement was advertised, even though advertising was not required, the first advertisement must have run no later than June 30, 1998;
    - B) if the procurement was by direct solicitation by mail, the solicitation must have been postmarked or placed in the control of a private carrier no later than June 30, 1998;

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

- C) if the procurement was by direct solicitation by fax, the fax must show a transmission date no later than June 30, 1998;
- D) if the procurement was solicited in-person or by telephone, the solicitation must have occurred no later than June 30, 1998, and the State officer or employee who made the solicitation must state in writing when the procurement was discussed and must name the party with whom the discussion took place.
- 3) In all circumstances, the solicitations must be for the procurement of particular needs. A general discussion to determine if there is any interest on the part of a State agency in the supplies or services of a vendor or vendors, or on the part of a vendor or vendors in providing the supplies or services, is not considered a solicitation.
- f) The Code and this Part do not apply to:
  - 1) contracts between the State and its political subdivisions or other governments, or between State governmental bodies except as specifically provided in this Code (for purposes of this subsection (d)(1), "governmental bodies" includes the State universities and their governing boards, community colleges and their governing boards and school districts);
  - 2) grants;
  - 3) hiring of an individual as employee and not as an independent contractor, whether pursuant to an employment code or policy or by contract directly with that individual;
  - 4) collective bargaining contracts;
  - 5) purchase of real estate; or
  - 6) contracts necessary to prepare for anticipated litigation, enforcement actions, or investigations, [30 ILCS 500/1-10] provided that the chief legal counsel to the Lt. Governor shall give his or her prior approval. Anticipated litigation is that which the OLG may prosecute or defend before a court or administrative body and actions necessary to prepare for and conduct the effective legal prosecution or defense of litigation, including, but not limited to, contracting for expert witnesses.

**Section 1600.15 Definition of Terms Used in This Part**  
**EMERGENCY**

As used throughout this Part, terms defined in the Illinois Procurement Code shall have the same meaning as in the Code and as further defined below, and each term listed in this Section shall have the meaning set forth below unless its use clearly requires a different meaning. Terms may be defined in particular Sections for use in that Section.

"Bid" - The response to an Invitation for Bids.

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

"Bidder" - Any person who submits a bid.

"Brand Name or Equal Specification" - A specification that uses one or more manufacturer's names or catalogue numbers to describe the standard of quality, performance, and other characteristics needed to meet State requirements, and that allows the submission of equivalent products.

"Brand Name Specification" - A specification limited to one or more items by manufacturers' names or catalogue numbers.

"Code" - The Illinois Procurement Code [30 ILCS 500].

"Concession" - The right or a lease to engage in a certain activity for profit on the lessor's premises (e.g., a refreshment or parking concession).

"Contract" - A contract may be in written or oral form. The term contract as used in the Code and this Part includes any agreement or lease that requires the payment of State funds by the OIG in exchange for goods or services but it does not include bonds issued by or on behalf of any State agency or contracts relating to bonds issued by or on behalf of a State agency when the contractor or vendor is neither selected nor paid by the State agency.

"Contractor" or "Vendor" - The terms contractor and vendor are used interchangeably for purposes of the Code and this Part.

"Day" - Calendar day. In computing any period of time, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a State holiday, in which event the period shall run to the end of the next business day.

"Items" - Anything that may be procured under this Code.

"Invitation for Bids" or "IFB" - The process by which a purchasing agency requests information from bidders, including all documents, whether attached or incorporated by reference, used for soliciting bids. [30 ILCS 500/1-15.45]

"Procurement Officer" - The Chief Procurement Officer (CPO) or his or her designee who conducts the particular procurement.

"Proposal" - The response to a Request for Proposals.

"Qualified Products List" - An approved list of supplies described by model or catalog numbers that, prior to competitive solicitation, the

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

State has determined will meet the applicable specification requirements.

"Request for Proposals" or "RFP" - The process by which a purchasing agency requests information from offerors, including all documents, whether attached or incorporated by reference, used for soliciting proposals. [30 ILCS 500/1-15.75]

"Responsive Bidder" - A person who has submitted a bid that conforms in all material respects to the invitation for bids. [30 ILCS 500/1-85]

"Responsible Offeror" - A person who has submitted an offer that conforms in all material respects to the Request for Proposals.

"Service" - The furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports or supplies that are incidental to the required performance. [30 ILCS 500/1-15.90]

"Specification" - Any description of the physical, functional, or performance characteristics, or of the nature of a supply or service. A specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply or service item for delivery. Unless the context requires otherwise, the terms "specification" and "purchase description" are used interchangeably throughout this Part.

"Specification for a Common or General Use Item" - A specification that has been developed and approved for repeated use in procurements.

"State agency" - Includes all boards, commissions, agencies, institutions, authorities, and bodies politic and corporate of the State, created by or in accordance with the constitution or statute, of the executive branch of State government and does include colleges, universities, and institutions under the jurisdiction of the governing boards of the University of Illinois, Southern Illinois University, Illinois State University, Eastern Illinois University, Northern Illinois University, Western Illinois University, Chicago State University, Lt. Governors State University, Northeastern Illinois University, and the Board of Higher Education. However, this term does not apply to public employee retirement systems or investment boards that are subject to fiduciary duties imposed by the Illinois Pension Code or to the University of Illinois Foundation. "State agency" does not include units of local government, school districts, community colleges under the Public Community College Act, and the Illinois Comprehensive Health Insurance Board. [30 ILCS 500/1-15.100]

"Supplies" - All personal property, including but not limited to

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

*equipment, materials, printing, and insurance, and the financing of those supplies.* [30 ILCS 500/1-15.110]

"Unsolicited Offer" - Any offer other than one submitted in response to a solicitation.

**Section 1600.25 Property Rights****EMERGENCY**

Receipt of an Invitation for Bids or other procurement document, or submission of any response thereto, or other offer, confers no right to receive an award or contract, nor does it obligate the State in any manner.

## SUBPART B: PROCUREMENT RULES

**Section 1600.525 Rules****EMERGENCY**

Procurement under the jurisdiction of the OLG shall be conducted substantially in accordance with the Code and in accordance with this Part except as provided in this Section. The OLG may in the same manner as State agencies under the jurisdiction of the CPO of CMS, without soliciting independent bids, proposals, or responses, procure goods and services from Master Contracts or other centralized purchasing arrangements established by CMS from vendors selected by CMS in accordance with a competitive selection process established by CMS under the Code.

## SUBPART C: PROCUREMENT AUTHORITY

**Section 1600.1005 Exercise of Procurement Authority****EMERGENCY**

a) The CPO shall ensure that all procurements of the OLG are in accordance with the Code and this part and are in the best interests of the State. For procurements other than for issuance of State debt, the CPO may request that CMS conduct such procurements on behalf of the OLG. Such procurements conducted by CMS on behalf of the OLG shall be carried out in accordance with the Code and Rules issued by CMS thereunder. Additionally, the CPO may delegate to the CPO of CMS the authority to exercise on behalf of the CPO or any Purchasing Officer any right, responsibility, duty or obligation vested in the CPO or any Purchasing Officer thereunder.

b) The CPO may appoint one or more employees under his direction and supervision to serve as a SPO.

## SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

**Section 1600.1510 Illinois Procurement Bulletin**

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

**EMERGENCY**

- a) Notice of any procurement action, by or on behalf of the OLG, which would be required by the Code to be published in the Illinois Procurement Bulletin if the OLG were a "State Agency" will be forwarded to CMS for inclusion in the appropriate volume of the Bulletin.
- b) The Bulletin may be supplemented at the discretion of the OLG with publication elsewhere, including in the Official State Newspaper selected by CMS.
- c) The notice shall contain at least the following information:
  - 1) the name of the procuring agency (and using agency, if different);
  - 2) a brief purchase description;
  - 3) a procurement reference number, if used;
  - 4) the date the procurement is first offered;
  - 5) the date, time, and location for making submissions;
  - 6) the method of source selection;
  - 7) the name of the Procurement Officer in charge; and
  - 8) instructions on how to obtain detailed information.
- d) Notice of each contract awarded that was subject of a notice in subsection (b) above shall be placed in the Bulletin. This notice shall contain at least the following information:
  - 1) the information published in subsection (b) above;
  - 2) the name of the vendor selected for award;
  - 3) the contract price;
  - 4) the number of unsuccessful vendors; and
  - 5) other disclosures required to be published in the Bulletin.
- e) The following information regarding emergency procurements shall be published in the Bulletin within 14 days after date of performance under the emergency contract:
  - 1) name of the procuring agency (and using agency, if different);
  - 2) name of the vendor selected for award;
  - 3) brief description of what the vendor will do or provide;
  - 4) total price (if only an estimate is known, it shall be published, but a subsequent notice repeating all required information shall be published when the final amount is known);
  - 5) reasons for using the emergency method of source selection; and
  - 6) name of the Procurement Officer in charge.
- f) The following information in regard to sole source procurements shall be published in the Bulletin at least 14 days prior to entering into the contract with the designated sole source vendor:
  - 1) name of the procuring agency (or using agency, if different);
  - 2) name of the vendor;
  - 3) brief description of what the vendor will do or provide; and
  - 4) name of the Procurement Officer in charge.

**Section 1600.1570 Error in Notice**



## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

**EMERGENCY**

When a required publication contains an error, the error may be corrected by a single notice published in the Bulletin.

**Section 1600.1580 Direct Solicitation****EMERGENCY**

In addition to giving notice in the Bulletin, OLG may directly contact prospective vendors by providing copies of Invitations for Bids, Requests for Proposals, or other procurement information. Direct solicitation may be oral or in writing, but care should be taken to ensure that all vendors solicited in this manner receive the same information as provided to others.

## SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

**Section 1600.2005 General Provisions****EMERGENCY**

a) Late Bids or Proposals, Late Withdrawals and Late Modifications  
1) Definition. Any bid or proposal received after the time and date for receipt, or at other than the specified location even if on time, is late. Any withdrawal or modification of a bid or proposal received after the time and date set for opening of bids or proposals is late. If received at other than the specified location, the submission is late.

2) Treatment. No late bid or proposal, late modification, or late withdrawal will be considered unless the CPO, and not a designee, determines it would have been timely but for the action or inaction of State personnel directly serving the procurement activity (e.g., providing the wrong address).

3) Records. Records shall be made and, in accordance with the State Records Act [5 ILCS 160], kept for each late bid or proposal, late modification, or late withdrawal.

4) Other Submissions. Any other submission that has a time or date deadline shall be treated in the same manner as a late bid.

b) Extension of Time

1) The CPO may, prior to the date or time for submitting or modifying a bid or proposal, extend the date or time for the convenience of the State.

2) After opening bids or proposals, the CPO may request bidders or offerors to extend the time during which the State may accept the bids or proposals, provided that, with regard to bids, no other change is permitted.

c) Electronic and Facsimile Submissions

1) The Invitation for Bids or Request for Proposals may state that electronic and facsimile machine submissions will be considered if they are received at the designated office by the time and

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

date set for receipt. Any required attachments will be submitted as stated in the IFB or RFP.

2) Electronic submissions authorized by specific language in the IFB or RFP will be opened in accordance with electronic security measures in effect at the purchasing agency at the time of opening. Unless the electronic submission procedures provide for a secure receipt, vendor assumes risk of premature disclosure due to submission in unsealed form.

3) Fax submissions authorized by specific language in the IFB or RFP will be placed in a sealed container upon receipt and opened as other submissions. Vendor assumes risk of premature disclosure due to submission in unsealed form.

d) Intent to Submit

The Invitation for Bids or the Request for Proposals may require that vendors submit, by a certain time and date, a notice of their intent to submit a bid or proposal in response to the IFB or RFP. Bids and proposals submitted without complying with the notice of intent requirement may be rejected.

e) Only One Bid or Proposal Received

If only one bid or proposal is received, an award may be made to the single bidder or offeror if the Procurement Officer finds that the price submitted is fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond, or there is not adequate time for resolicitation. Otherwise:

1) new bids or offers may be solicited, including under sole source (Section 1600.2025) or emergency (Section 1600.2030) procedures;

or

2) the procurement may be canceled.

f) Alternate or Multiple Bids or Proposals

1) Alternate bids or proposals may be accepted if:

A) permitted by the solicitation and in accordance with instructions in the solicitation; or

B) only one vendor responded, in which case the alternate submission may be evaluated and treated in accordance with Section 1600.2025 (Sole Source Procurement) of this Part; or

C) the low bidder, who has met all requirements of the solicitation, has provided a lower cost alternative that meets all of the material requirements of the specifications.

2) Multiple bids or proposals may be accepted if:

A) permitted by the solicitation and submitted in accordance with instructions in the solicitation; or

B) only one vendor responded, then, one or more of the submissions may be evaluated, provided that, in the case of bids, only the lowest cost bid meeting specifications may be considered.

3) If a vendor clearly indicates a primary submission among alternate or multiple bids or proposals, then that primary

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

submission shall be considered for award as though it were the only bid or proposal submitted by the vendor.

## g) Multiple Items

An Invitation for Bids or Request for Proposals may call for pricing of multiple items of similar or related type with award based on individual line item, group total of certain items, or grand total of all items.

## h) "All or None" Bids or Proposals

All or none bids or proposals may be accepted if the evaluation shows an all or none award to be the lowest cost or best value of those submitted.

## i) Conditioning Bids or Proposals Upon Other Awards Any bid or proposal that is conditioned upon receiving award of the particular contract being solicited and one or more other State contracts shall:

- 1) be rejected unless the vendor removes the condition; or
- 2) be evaluated and award made to that vendor if the vendor is also independently evaluated as the winner of the other IFBs or RFPs provided the agency need not delay procurement actions to accommodate the vendor's all or none condition.

## j) Unsolicited Offers

- 1) processing of Unsolicited Offers. The CPO may consider unsolicited offers.
- 2) Conditions for Consideration. An unsolicited offer must be in writing and must be sufficiently detailed to allow a judgment to be made concerning the potential utility of the offer to the State.
- 3) Award. An award may not be made based on an unsolicited offer in place of the notice and competition requirements of the Code and this Part except if that unsolicited offer meets the requirements for a small (Section 1600.2020), sole source (Section 1600.2025), or emergency (Section 1600.2030) procurement.

## k) Clarification of Bids and Proposals

The CPO may request that a vendor clarify its bid or proposal as a part of the evaluation process. A vendor shall not be allowed to materially change its bid or proposal in response to a request for clarification. A clarification is not an opportunity to make changes or for submission of best and finals as authorized elsewhere in this Part.

## l) Extension of Time on Indefinite Quantity Contracts

The time of performance of an indefinite quantity contract may be extended upon agreement of the parties, provided the extension is for 90 days or less and the Procurement Officer determines in writing that it is not practical to award another contract at the time of such extension.

## m) Increase in Quantity on Definite Quantity Contracts

- 1) The quantity that may be ordered from a definite quantity contract without additional notice and competition may be increased by up to 20% provided the CPO determines that separate

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

bidding for the additional quantity is not likely to achieve lower pricing. A particular procurement may specify a different percentage.

- 2) The quantity may be increased by any percentage provided the dollar value of the increase does not exceed the applicable small purchase (Section 1600.2020) threshold.

## n) Subsequent Purchase Request

If, within 30 days after making an award to a particular vendor pursuant to a competitive sealed bid by or on behalf of the OLG, the CPO receives another purchase request for the same item and for the same or lesser quantity, the CPO may contract with that vendor on the same terms and conditions, including price, without additional notice and competition, if such contract is acceptable to the vendor.

## o) Assignment, Novation or Change of Name

1) Assignment. No State contract is transferable, or otherwise assignable, without the written consent of the CPO, provided, however, that a vendor may assign money receivable under a contract after due notice to the State. Assignment may require the execution of a contract with the assignee and in such cases the assignee must meet all requirements for contracting with the State.

- 2) Recognition of a Successor in Interest; Novation. When in the best interest of the State, a successor in interest may be recognized in a novation agreement in which the transferor and the transferee agree that:

- A) the transferee assumes all of the transferor's obligations;
  - B) the transferee meets all requirements for contracting with the State;
  - C) the transferor waives all rights under the contract as against the State; and
  - D) unless the transferor guarantees performance of the contract by the transferee, the transferee shall, if required by the State, furnish a satisfactory performance bond.
- 3) Change of Name. A vendor may submit a written request to change the name in which it holds a contract with the State. The name change shall not alter any of the terms and conditions of the contract or the obligations of the vendor.
  - 4) Reports. All change of name or novation agreements under this subsection (o) shall be reported to the CPO within 30 days after the date the agreement becomes effective so that the bid list may be updated.

p) Contracting for Installment Purchase Payments, Including Interest Contracts may provide for installment purchase payments, including interest charges, over a period of time. The interest rate may not exceed that established by law, including the Bond Authorization Act [30 ILCS 305].

q) Use of Source Selection Method that is Not Required

If the OLG uses a method of source selection that it is not, by law,

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

required to use (e.g., use of a competitive sealed bid for a small purchase), it is not bound to strict compliance with the Code and rules governing the method of source selection used.

- r) Vendor Signature  
A bid or proposal submitted unsigned will be evaluated if the vendor submits a written signature acceptable to the Procurement Officer within the time specified by that officer.
- s) Stringing  
Dividing or planning procurements to avoid use of competitive procedures (stringing) is prohibited.
- t) Confidential Data  
Vendors must clearly identify any information that is exempt from the disclosure requirement of the Illinois Freedom of Information Act [5 ILCS 140] and must request special handling of that material.

**Section 1600.2010 Competitive Sealed Bidding****EMERGENCY**

- a) Application  
Competitive sealed bidding is the required method of source selection except as allowed by the Code and this Part. The provisions of this Section apply to every procurement required to be conducted by competitive sealed bidding.
- b) The Invitation for Bids
  - 1) Use. The Invitation for Bids is used to initiate a competitive sealed bid procurement.
  - 2) Content. The Invitation for Bids shall include, at a minimum, the following:
    - A) instructions and information to bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the address of the office to which bids are to be delivered, and the maximum time for bid acceptance;
    - B) the purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description; and
    - C) the contract terms and conditions, including warranty and bonding or other security requirements, as applicable.
- 3) Incorporation by Reference. The Invitation for Bids may incorporate documents by reference provided that the Invitation for Bids specifies where such documents can be obtained.
- c) Bidding Time  
Bidding time is the period of time between the date of notice or distribution of the Invitation for Bids and the time and date set for receipt of bids. In each case, bidding time will be set to provide bidders a reasonable time to prepare their bids. A minimum of 14 days shall be provided unless a shorter time is authorized by the Code or this Part.

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

## d) Bidder Submissions

- 1) Bid Form. The Invitation for Bids may include a form or format for submitting bids. If a form or format is specified, vendor shall submit bids as instructed.
- 2) Bid Samples and Descriptive Literature  
A) Bid samples or descriptive literature may be required when it is necessary to evaluate required characteristics of the items bid.  
B) Unsolicited bid samples or descriptive literature are submitted at the bidder's risk, may not be examined or tested, will not be deemed to vary any of the provisions of the Invitation for Bids, and may not be utilized by the vendor to contest a decision or understanding with the OLG.
- e) Public Notice  
1) Publication. Every procurement for supplies and services in excess of \$10,000 that must be procured using an Invitation for Bids shall be publicized in the Illinois Procurement Bulletin (see Section 1600.1510).  
2) Public Availability. A copy of the Invitation for Bids shall be made available for public inspection.  
3) Distribution. Invitations for Bids or Notices of the Availability of Invitations for Bids may be mailed or otherwise furnished to a sufficient number of bidders for the purpose of securing competition. Notices of Availability shall, at a minimum, indicate where Invitations for Bids may be obtained; generally describe what is needed; and indicate the due date for bids. Where appropriate, the Procurement Officer may require payment of a fee or a deposit for supplying the Invitation for Bids.
- f) Pre-Bid Conference  
A pre-bid conference may be conducted to enhance understanding of the procurement requirements. The pre-bid conference shall be announced as a part of the Invitation for Bids notice. The conference may be designated as "attendance mandatory" or "attendance optional". The conference should be held long enough after the Invitation for Bids has been issued to allow bidders to become familiar with it, but sufficiently before bid opening to allow consideration of the conference results in preparing their bids. Nothing stated at the pre-bid conference shall change the Invitation for Bids unless a change is made by written modification to the Invitation for Bids. Amendments shall be supplied to all those prospective bidders known to have received an Invitation for Bids. If the conference is mandatory, the amendment shall be supplied to attendees only.  
Amendments to Invitations for Bids  
1) Form. Amendments to Invitations for Bids shall be clearly identified and shall reference the portion of the IFB it amends.  
2) Distribution. Amendments shall be made available to all prospective bidders known to have received an Invitation for



## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

## Bids.

- 3) Timeliness. Amendments shall be made available within a reasonable time to allow prospective bidders to consider them in preparing their bids. If the time and date set for receipt of bids will not permit such preparation, the amendment shall extend the response time. If necessary, the response time may be extended by fax or telephone and confirmed in the amendment.

## h) Pre-Opening Modification or Withdrawal of Bids

- 1) Procedure. Bids may be modified or withdrawn by written notice received in the office designated in the Invitation for Bids prior to the time and date set for bid opening.
- 2) Disposition of Bid Security. If a bid is withdrawn in accordance with this Section, the bid security, if any, shall be returned to the bidder.
- 3) Records. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.

## i) Receipt, Opening and Recording of Bids

- 1) Receipt. Upon its receipt, each bid and modification shall be time-stamped but not opened and shall be stored in a secure place until the time and date set for bid opening. If a bid is opened in error, the file shall so state.

## 2) Opening and Recording

- A) Bids and modifications shall be opened publicly at the time, date, and place designated in the Invitation for Bids. Opening shall be witnessed by a State employee or any other person present, but the person opening bids shall not serve as witness. The name of each bidder, the bid price, and such other information as is deemed appropriate by the Procurement Officer, shall be recorded and the name of each bidder read aloud or otherwise made available. The name of the witness shall also be recorded at the opening.

- B) The winning bid shall be available for public inspection after award, along with the record of each unsuccessful bid.

## j) Bid Evaluation and Award

- 1) General. The contract is to be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids, except as permitted in the Code and this Part. The Invitation for Bids shall set forth the requirements and criteria that will be used to determine the lowest responsive bidder. No bid shall be evaluated for any requirements or criteria that are not disclosed in the Invitation for Bids.

- 2) Responsibility. Responsibility of prospective vendors is covered by Section 1600.2045 (Responsibility) of this Part.

- 3) Responsiveness. A bid must conform in all material respects to the Invitation for Bids.

- A) Product or Service Acceptability. The Invitation for Bids

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

shall set forth any evaluation criteria to be used in determining product or service acceptability. It may require the submission of bid samples, descriptive literature, technical data, references, licenses, or other information or material. It may also provide for accomplishing any of the following prior to award:

- i) inspection or testing of a product or service prior to award for such characteristics as quality or workmanship;
  - ii) examination of such elements as appearance, finish, taste, or feel;
  - iii) other examinations to determine whether it conforms with any other purchase description requirements.
- B) The acceptability evaluation is not conducted for the purpose of determining whether one bidder's product or service capability is superior to another, but only to determine that a bidder's offering is acceptable as set forth in the Invitation for Bids. Any bidder's offering that does not meet the acceptability requirements shall be rejected.

- 4) Determination of Lowest Bidder. Following determination of product or service acceptability as set forth in this subsection (j), bids will be evaluated to determine which bidder offers the lowest cost to the State in accordance with the evaluation criteria set forth in the Invitation for Bids. Only objectively measurable criteria that are set forth in the Invitation for Bids shall be applied in determining the lowest bidder. Examples of such criteria include, but are not limited to, transportation cost and ownership or life-cycle cost formulas. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible such evaluation factors shall be reasonable estimates based upon information the State has available concerning future use and shall provide for the equitable treatment of all bids. Pricing for optional supplies or services, or for renewal terms, may be considered, particularly when the pricing for such items or terms is unbalanced when compared to other pricing in the bid.
- 5) Price Negotiation. Negotiations are permitted with the low bidder to obtain a lower price for the item bid.

## k) Documentation of Award

Following award, a record showing the successful bidder shall be made a part of the procurement file.

## 1) Award to Other Than Low Bidder

- 1) The Procurement Officer may award to other than the lowest responsible and responsive bidder upon a written determination that award to another bidder is in the State's best interest. The name of the bidder selected, pricing, and the reasons for selecting this bidder instead of the low bidder must be published

OFFICE OF THE LT. GOVERNOR  
NOTICE OF EMERGENCY RULES

- in the Bulletin.
- 2) This action may be appropriate when the difference in quality or speed of delivery is so great as compared to the difference in price, and considering the needs of the agency, that a best value award is justified. However, if the difference in price is significant, the Procurement Officer may not utilize this provision.
  - m) Publicizing Award  
The successful bidder shall be notified of award and such notification may be in the form of a letter, purchase order or other clear communication. In procurements over the small purchase limit set in Section 1600.2020 (Small Purchases) of this Part, notice of award shall be published in the Bulletin.

**Section 1600.2012 Multi-Step Sealed Bidding  
EMERGENCY**

- a) Definition. Multi-step sealed bidding is a two-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated by the State, and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase have their price bids considered.
- b) Conditions for Use. The multi-step sealed bidding method may be used when it is not practical to prepare initially a definitive purchase description that will be suitable to permit an award based on price. Multi-step sealed bidding may be used when it is considered desirable:
  - 1) to invite and evaluate possible diverse technical offers to determine their acceptability to fulfill the purchase description requirements; and
  - 2) to conduct discussions for the purposes of facilitating understanding of the technical offer and purchase description requirements and, where appropriate, obtain supplemental information, permit amendments of technical offers, or amend the purchase description.
- c) Pre-Bid Conference in Multi-Step Sealed Bidding  
Prior to the submission or evaluation of unpriced technical offers, a pre-bid conference as contemplated by Section 1600.2010(f) (Pre-Bid Conference) may be conducted by the Procurement Officer.
- d) Procedure for Phase One of Multi-Step Sealed Bidding
  - 1) Form. Multi-step sealed bidding shall be initiated by the issuance of an Invitation for Bids in the form required by Section 1600.2010 (Competitive Sealed Bidding), except as hereinafter provided. In addition to the requirements set forth in Section 1600.2010, the multi-step Invitation for Bids shall state:
    - A) that unpriced technical offers are requested;
    - B) whether priced bids are to be submitted at the same time as

OFFICE OF THE LT. GOVERNOR  
NOTICE OF EMERGENCY RULES

- unpriced technical offers; if they are, such priced bids shall be submitted in a separate sealed envelope;
- C) that it is a multi-step sealed bid procurement, and priced bids will be considered only in the second phase and only from those bidders whose unpriced technical offers are found acceptable in the first phase;
  - D) the criteria to be used in the evaluation of the unpriced technical offers;
  - E) that the Procurement Officer may conduct oral or written discussions of the unpriced technical offers;
  - F) that the item being procured shall be furnished generally in accordance with the bidder's technical offer as found to be finally acceptable and shall meet the requirements of the Invitation for Bids.
- 2) Amendments to the Invitation for Bids. After receipt of unpriced technical offers, amendments to the Invitation for Bids shall be distributed only to bidders who submitted unpriced technical offers, and they shall be permitted to submit new unpriced technical offers or to amend those submitted. If, in the opinion of the Procurement Officer, a contemplated amendment will significantly change the nature of the procurement, the Invitation for Bids may be canceled in accordance with Section 1600.2040 (Cancellation of Solicitation; Rejection of Bids or Proposals) of this Part and a new Invitation for Bids issued.
  - 3) Receipt and Handling of Unpriced Technical Offers. Unpriced technical offers submitted by bidders shall be opened in the presence of at least one witness. Such offers shall not be disclosed to unauthorized persons.
  - 4) Evaluation of Unpriced Technical Offers. The unpriced technical offers submitted by bidders shall be evaluated solely in accordance with the criteria set forth in the Invitation for Bids. The unpriced technical offers shall be categorized as:
    - A) acceptable;
    - B) potentially acceptable, that is, reasonably susceptible of being made acceptable; or
    - C) unacceptable, in which case the Procurement Officer shall record in writing the basis for finding an offer unacceptable, notify the vendor and make it part of the procurement file.
  - 5) The Procurement Officer may initiate phase two of the procedure if, in the Procurement Officer's opinion, there are sufficient acceptable unpriced technical offers to assure effective price competition in the second phase without technical discussions. If the Procurement Officer finds discussion of the technical offers is necessary, the Procurement Officer shall commence discussions of the unpriced technical proposals.
  - 6) Discussion of Unpriced Technical Offers. The Procurement Officer may conduct discussions with any vendor who submits an acceptable



## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

or potentially acceptable technical offer. During the course of such discussions, the Procurement Officer shall not disclose any information derived from one unpriced technical offer to any other bidder. Any such bidder may submit supplemental information amending its technical offer at any time until the closing date established by the Procurement Officer. Such submission may be made at the request of the Procurement Officer or upon the bidder's own initiative.

- 7) Unacceptable Unpriced Technical Offer. When the Procurement Officer determines a bidder's unpriced technical offer to be unacceptable, such offeror shall not be afforded an additional opportunity to supplement its technical offer.

## e) Procedure for Phase Two

- 1) Initiation. Upon the completion of phase one, the Procurement Officer shall either:

- A) open priced bids submitted in phase one (if priced bids were required to be submitted) from bidders whose unpriced technical offers were found to be acceptable; or
- B) if priced bids have not been submitted, invite each acceptable bidder to submit a priced bid.

- 2) Conduct. Phase two shall be conducted as any other competitive sealed bid procurement except:

- A) no public notice need be given of this invitation to submit priced bids because such notice was previously given;
- B) after award, the unpriced technical offer of the successful bidder shall be disclosed as follows: The Procurement Officer shall examine written requests of confidentiality for trade secrets and proprietary data in the technical offer of such bidder to determine the validity of any such requests. If the parties do not agree as to the disclosure of data, the Procurement Officer shall reject the offer. Such technical offer shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data; and
- C) unpriced technical offers of bidders who are not awarded the contract shall not be open to public inspection.

Section 1600.2015 Competitive Sealed Proposals  
EMERGENCY

- a) Competitive Sealed Proposals may be used whenever permitted by the Code and as described in this Part.
- b) The Competitive Sealed Proposal method of source selection may be used to procure the following categories:
  - 1) electronic data processing equipment, software, and services;
  - 2) telecommunications equipment, software, and services;
  - 3) consulting services; and
  - 4) employee benefits and management of those benefits.

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

- c) Competitive Sealed Proposals may be used on a case-by-case basis when it is determined by the Procurement Officer that competitive sealed bidding is either not practicable or advantageous.

- 1) "Practicable" Distinguished from "Advantageous." As used in Section 20-15 (Competitive Sealed Proposals) of the Illinois Procurement Code and in this Section, "practicable" denotes what may be accomplished or put into practical application, and "advantageous" connotes a judgmental assessment of what is in the State's best interest. Competitive sealed bidding may be practicable, that is, reasonably possible, but not necessarily advantageous, that is, in the State's best interest. Before a procurement may be conducted by competitive sealed proposals, the Procurement Officer shall determine in writing that competitive sealed bidding is either not practicable or not advantageous to the State.

## 2) General Discussion

- A) If competitive sealed bidding is not practicable or is not advantageous, competitive sealed proposals should be used.
- B) The key element in determining whether use of a proposal is advantageous is the need for flexibility. The competitive sealed proposal method differs from competitive sealed bidding in two important ways:
  - i) it permits discussions with competing offerors and changes in their proposals, including price; and
  - ii) it allows comparative judgmental evaluations to be made when selecting among acceptable proposals for award of the contract.
- C) Where evaluation factors involve the relative abilities of offerors to perform, including degrees of experience or expertise, where the types of supplies or services may require the use of comparative, judgmental evaluations to evaluate them adequately, or where the type of need to be satisfied involves weighing aesthetic values to the extent that price is a secondary consideration, use of competitive sealed proposals is the appropriate procurement method.

- 3) When Competitive Sealed Bidding Is Not Practicable. Competitive sealed bidding is not practicable unless the nature of the procurement permits award to a low bidder who agrees by its bid to perform without condition or reservation in accordance with the purchase description, delivery or performance schedule, and all other terms and conditions of the Invitation for Bids. Factors to be considered in determining whether competitive sealed bidding is not practicable include:

- A) whether the contract needs to be other than a fixed-price type;
- B) whether oral or written discussions may need to be conducted with offerors concerning technical and price aspects of their proposals;



## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

- C) whether offerors may need to be afforded the opportunity to revise their proposals, including price;
  - D) whether award may need to be based upon a comparative evaluation, as stated in the Request for Proposals, of differing price, quality, and contractual factors in order to determine the most advantageous offering to the State. Quality factors include technical and performance capability and the content of the technical proposal; and
  - E) whether the primary consideration in determining award may not be price.
- 4) When Competitive Sealed Bidding Is Not Advantageous. A determination may be made to use competitive sealed proposals if it is determined that it is not advantageous to the State, even though practicable, to use competitive sealed bidding. Factors to be considered in determining whether competitive sealed bidding is not advantageous include:

- A) if prior procurements indicate that competitive sealed proposals may result in more beneficial contracts for the State; and
- B) whether the factors listed in subsection (c)(3) of this Section are desirable, in conducting a procurement, rather than necessary; if they are, then such factors may be used to support a determination that competitive sealed bidding is not advantageous.

## d) Content of the Request for Proposals

The Request for Proposals shall be prepared in accordance with Section 1600.2010 (Competitive Sealed Bidding), provided that it shall also include:

- 1) a statement that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award, but that proposals may be accepted without such discussions; and
- 2) a statement of when and how price should be submitted.

## e) Receipt and Registration of Proposals

- 1) Proposals and modifications shall be opened publicly at the time, date and place designated in the Request for Proposals. Opening shall be witnessed by a State employee or by any other person present, but the person opening proposals shall not serve as witness. A record shall be prepared which shall include the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the supply or service item offered. The record of proposals shall be open to public inspection after award of the contract.

- 2) Proposals and modifications shall be opened in a manner to avoid disclosing contents to competitors. Only State personnel and contractual agents may review the proposals prior to award.

## f) Evaluation of Proposals

- 1) Evaluation Factors in the Request for Proposals. The Request for

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

Proposals shall state all of the evaluation factors, including price, and their relative importance.

- 2) Evaluation. The evaluation shall be based on the evaluation factors set forth in the Request for Proposals. Factors not specified in the Request for Proposals shall not be considered. Numerical rating systems may be used but are not required.

- 3) Classifying Proposals. For the purpose of conducting discussions, proposals may be initially classified as:

- A) acceptable;
- B) potentially acceptable, that is, reasonably susceptible of being made acceptable; or
- C) unacceptable. Offerors whose proposals are unacceptable shall be so notified promptly.

## g) Proposal Discussions with Individual Offerors

- 1) "Offerors" Defined. For the purposes of Section 20-15(f) (Competitive Sealed Proposals, Discussion with Responsible Offerors and Revisions to Proposals) of the Illinois Procurement Code and of this Section, the term "offerors" includes only those businesses submitting proposals that are acceptable or potentially acceptable. The term shall not include businesses that submitted unacceptable proposals.

- 2) Purposes of Discussions. Discussions are held to:

- A) promote understanding of the State's requirements and the offerors' proposals; and
- B) facilitate arriving at a contract that will be most advantageous to the State, taking into consideration price and the other evaluation factors set forth in the Request for Proposals.

- 3) Conduct of Discussions. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of proposals. If during discussions there is a need for any substantial clarification of, or change to, the Request for Proposals, the Request shall be amended to incorporate such clarification or change. Auction techniques (revealing one offeror's price to another) and disclosure of any information from competing proposals are prohibited. Any substantial oral clarification of a proposal shall be reduced to writing by the offeror.

- 4) Best and Final Offers. The Procurement Officer may request best and final offers from those offerors deemed acceptable after completion of any discussions. Best and final offers shall be submitted by a specified date and time. The Procurement Officer may conduct additional discussions or change the State's requirements and require another submission of best and final offers. The scope of the best and final and the number of vendors allowed to participate shall be defined by the Procurement Officer. If an offeror does not submit either a notice of withdrawal or another best and final offer, that

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

offeror's immediately previous offer will be construed as its best and final offer.

## h) Award

An award shall be made by the Procurement Officer pursuant to a written determination showing the basis on which the award was found to be most advantageous to the State, based on the factors set forth in the Request for Proposals.

## i) Publicizing Awards

The successful offeror shall be notified of award and such notification may be in the form of a letter, purchase order or other clear communication. When the award exceeds the small purchase limit set in Section 1600.2020 of this Part, notice of award shall be published in the Bulletin.

## Section 1600.2020 Small Purchases

## EMERGENCY

## a) Application

1) Procurements of \$10,000 or less for supplies or services, other than professional and artistic, and \$30,000 or less for construction may be made using the method of source selection determined by the Procurement Officer to be most appropriate to the circumstances.

2) Procurements of less than \$20,000 for professional and artistic services and that have a non-renewal term of one year or less may be made using the method of source selection determined by the Procurement Officer to be most appropriate to the circumstances.

3) Any change identified by the United States Department of Labor in the Consumer Price Index, as certified by CMS, for All Urban Consumers for the period ending December 31, 1998, and for each year thereafter shall be used to adjust the small purchase maximums that shall be applicable for the fiscal year beginning July 1, 1999. The small purchase maximums shall be likewise recalculated for each July 1 thereafter.

b) In determining whether a contract is under the limit, the value of the contract for the full term and all optional renewals, determined in good faith, shall be utilized. The stated value of the supplies or services, plus any optional supplies and services, shall be utilized. Where the term is calculated month-to-month or in a similar fashion, the amount shall be calculated for a twelve month period.

c) If only a unit price or hourly rate is known, the contract shall be considered small and shall have a not to exceed limit applicable to the type of procurement (see subsection (a) above).

d) If, after signing the contract, the actual cost of completing the contract is determined to exceed \$10,000, and the Procurement Officer determines that a supplemental procurement is not economically feasible or practicable because of the immediacy of the agency's needs or other circumstances, the Procurement Officer must follow the

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

procedures for sole source or emergency procurement, whichever is applicable, to complete the contract.

e) Procurement requirements shall not be artificially divided to avoid using the other source selection methods set forth in Section 20-5 of the Illinois Procurement Code.

f) If there is a repetitive need for small procurements of the same type, the Procurement Officer shall consider issuing a competitive sealed bid or proposal for procurement of those needs.

Section 1600.2025 Sole Economically Feasible Source Procurement  
EMERGENCY

## a) Application

The provisions of this Part apply to procurement from a sole economically feasible source (referred to as sole source) unless the estimated amount of the procurement is within the limit set in Section 1600.2020 (Small Purchases) or unless emergency conditions exist as defined in Section 1600.2030 (Emergency Procurements) of this Part.

## b) Conditions for Use of Sole Source Procurement

Sole source procurement is permissible when a requirement is available from only a single supplier or when only one supplier is deemed economically feasible. A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder or offeror authorized to provide that item. The following are examples of circumstances that could necessitate sole source procurement:

1) where the compatibility of equipment, accessories, replacement parts, or service is a paramount consideration;

2) where a sole supplier's items are needed for trial use or testing;

3) where a sole supplier's item is to be procured for commercial resale;

4) where public utility regulated services are to be procured;

5) where the item is copyrighted or patented and the item or service is not available except from the holder of the copyright or patent;

6) the procurement of the media for advertising; and

7) the procurement of art or entertainment services.

## c) Changes

Changes to an existing contract that are germane and reasonable in scope and cost in relation to the original contract or program, that are necessary or desirable to complete the contract or program, and that can be best accomplished by the contract holder may be procured under this Section when the Procurement Officer determines that the cost of delay or disruption to the contract or program, and the cost of a new solicitation, clearly indicate that the existing vendor is the sole economically feasible source.

d) Procurement Officer to Determine



## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

- 1) The determination as to whether a procurement shall be made as a sole source shall be made by the Procurement Officer. Such determination and the basis therefore shall be in writing. Such officer may specify the application of such determination and the duration of its effectiveness.
- e) Publication of Sole Source Notice
  - The Procurement Officer shall submit to CMS for publication in the Bulletin notice of intent to contract with that vendor at least 14 days prior to execution of the contract.
  - 1) If no challenge to this determination is made by a vendor within the 14 day period, the Procurement Officer may execute a contract with that vendor.
  - 2) If a challenge is received, the Procurement Officer shall consider the information and shall commence a competitive procurement if the Procurement Officer determines that more than one economically feasible source may be available and the sole source designation is, therefore, not appropriate, unless an emergency situation exists.
- f) Negotiation in Sole Source Procurement
  - The Procurement Officer shall conduct negotiations, as appropriate, to reach contract terms, including price, and shall maintain a record of each sole source procurement showing:
    - 1) the vendor's name;
    - 2) the amount and type of the contract;
    - 3) what was procured; and
    - 4) the identification number of the contract file.

Section 1600.2030 Emergency Procurements  
EMERGENCY

- a) Applications
  - The provisions of this Part apply to every procurement over the small purchase limit set in Section 1600.2020 (Small Purchases) of this Part made under emergency, including quick purchase, conditions.
- b) Definition of Emergency Conditions
  - 1) A procurement may be made under this Section in situations in which:
    - A) public health or safety, including the health or safety of any particular person, is threatened;
    - B) immediate repairs are needed to State property to protect against further loss or damage to State property, or to prevent loss or damage to State property;
    - C) immediate action is needed to prevent or minimize serious disruption in State services;
    - D) action is needed to ensure the integrity of State records;
    - E) a supplier announces bankruptcy, cessation of business, or loss of franchise, or gives other similar reason such that making a purchase immediately is more advantageous to the

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

- F) State than instituting a competitive procurement under the provisions of this Code for the supplies or services; items are available on the spot market or at discounted prices for a limited time so that good business judgment mandates a purchase immediately to take advantage of the availability and price;
- G) equipment or services are necessary in the furtherance of covert activities lawfully conducted by a State agency. Any required disclosures shall be made so as not to jeopardize those covert activities;
- H) immediate action is necessary to avoid lapsing or loss of federal or donated funds;
- I) availability of rate items such as books of historical value;
- J) extending an existing contract for such period of time as is needed to conduct a competitive method of source selection where terminating or allowing the contract to terminate would not be advantageous to the State; or
- K) the need for services to protect or further State interests is immediate and use of other competitive source selection procedures under the Code and this Part cannot be accomplished without significant risk of causing disadvantage to the State.
- 2) After Unsuccessful Competitive Sealed Bidding or Proposals or Request for Proposals. When bids or proposals received pursuant to a competitive sealed bid or competitive sealed proposal method are unreasonable or noncompetitive, or the price exceeds available funds, and time or other circumstances will not permit the delay required to resolicit competitive sealed bids or proposals, and if emergency conditions exist after an unsuccessful attempt to use competitive sealed bidding, an emergency procurement may be made.
- c) Scope of Emergency Conditions
  - Emergency procurements shall be limited to the items, quantity and term necessary to meet the emergency need.
- d) Source Selection Methods
  - Any method of source selection, whether or not identified in this Part, may be used to conduct the procurement in emergency situations. The procedure used shall be selected to assure that the required items are procured in time to meet the emergency. Such competition as is practicable shall be obtained.
- e) Determination and Record of Emergency Procurement
  - 1) Determination. The Procurement Officer shall make a written determination stating the basis for an emergency procurement and for the selection of the particular vendor. Such determinations shall be kept in the contract file of the Procurement Officer.
  - 2) Record. An affidavit of each emergency procurement shall be filed with the Auditor General within 10 days after the



## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

procurement and shall include the following information:

- A) the vendor's name;
  - B) the amount and type of the contract, provided that if only an estimate of the amount is available immediately, the record shall be supplemented with the final amount once known;
  - C) a description of what the vendor will do or provide;
  - D) the reasons for using the emergency method of source selection.
- 3) Notice of the emergency procurement shall be published in the Bulletin in accordance with Subpart D of this Part.

### Section 1600.2035 Competitive Selection Procedures for Professional and Artistic Services EMERGENCY

#### a) Application

- 1) The provisions of this Section apply to every procurement of professional and artistic services except those subject to the Architectural, Engineering and Land Surveying Qualifications Based Selection Act [30 ILCS 535].
- 2) "Professional and artistic services" means those services provided under contract to a State agency by a person or business, acting as an independent contractor, qualified by education, experience, and technical ability [30 ILCS 525/1-15.60].

#### b) Professional and artistic services are further defined as follows:

- 1) "Qualified by education" means the individual who would perform the services must have obtained the level of education specified in the Request for Proposals.
- 2) "Qualified by experience" means the individual who would perform the services must have the level of general experience specified in the Request for Proposals.
- 3) "Qualified by technical ability" means the individual who would perform the services must demonstrate a high degree of skill or ability in performing services that are the same, similar or closely related in nature to those specified in the Request for Proposals.
- 4) An essential element distinguishing professional and artistic services from other services is confidence, trust, and belief in not only the ability, but the talent, of the individual performing the service. These services are primarily for intellectual or creative skills. Contracts for services primarily involving manual skills or labor are not professional and artistic services contracts. (See Illinois Attorney General Opinion S-256, January 20, 1971.)
- 5) If the professional or artistic contract is with a firm or other business entity, the individuals whose education, experience and

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

technical ability provided the basis on which the firm or other business entity was selected must meet the qualifications.

- c) The categories of services enumerated below shall be considered and procured as professional and artistic services. With regard to other services, the CPO may determine whether the factors identified in subsection (b), when applied to particular services to be procured, require such services to be procured as professional and artistic under these competitive selection procedures, or as services that are subject to one of the other methods of source selection authorized by the Code and this Part. The following categories are examples of disciplines that would always be professional and artistic services:

- 1) law;
  - 2) accounting;
  - 3) medicine;
  - 4) dentistry; and
  - 5) clinical psychology.
- d) Architect, engineering and land surveying services shall be procured pursuant to the procedures of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535]. Such procurements are not subject to the procedures for other professional services established in the Code or this Part.
- e) Conditions for Use of Competitive Selection Procedures Except as authorized under Section 20-25 (Sole Source Procurement) or Section 20-30 (Emergency Procurements) of the Code, these competitive selection procedures shall be used for all procurements of professional and artistic services of \$20,000 or more. Services less than \$20,000 and for a nonrenewable term of one year or less may be procured in accordance with Section 1600.2020 (Small Purchases) of this Part.
- f) Prequalification. The CPO may use the list of prequalified professional and artistic vendors maintained by CMS. Persons may amend statements of qualifications at any time by filing a new statement. Failure of a professional and artistic vendor to prequalify shall not be cause for rejection of a proposal provided that the responsive offeror supplies with its proposal all information defined by the prequalification process.
- g) Public Notice of Competitive Selection Procedures
- 1) Notice of the need for professional and artistic services shall be made by the Procurement Officer in the form of a Request for Proposals.
  - 2) Notice shall be given as provided in Section 1600.2010 (Competitive Sealed Bidding) of this Part.
  - 3) Notice shall also be distributed to prequalified persons interested in performing the services required by the proposed contract.
- h) Request for Proposals
- 1) Contents. The Request for Proposals shall be in the form specified by the CPO and shall contain at least the following

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

## information:

- A) the type of services required;
  - B) a description of the work involved;
  - C) an estimate of when and for how long the services will be required;
  - D) the type of contract to be used;
  - E) a date by which proposals for the performance of the services shall be submitted;
  - F) a statement of the minimum information that the proposal shall contain, which may, by way of example, include:
    - i) the name of the offeror, the location of the offeror's principal place of business and, if different, the place of performance of the proposed contract;
    - ii) if deemed relevant by the Procurement Officer, the age of the offeror's business and average number of employees over a previous period of time, as specified in the Request for Proposals;
    - iii) the abilities, qualifications, and experience of all persons who would be assigned to provide the required services;
    - iv) a listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within a previous period of time, as specified in the Request for Proposals;
    - v) a plan explaining how the services will be performed;
  - G) price (to be submitted in a separate envelope in the proposal package and not mentioned elsewhere in the proposal package); and
  - H) the factors to be used in the evaluation and selection process and their relative importance.
- 2) Evaluation. Proposals shall be evaluated only on the basis of evaluation factors stated in the Request for Proposals. Price will not be evaluated until ranking of all proposals and identification of the most qualified vendor. The relative importance of the evaluation factors will vary according to the type of services being procured. The minimum factors are:
- A) the plan for performing the required services;
  - B) ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services;
  - C) the personnel, equipment, and facilities to perform the services currently available or demonstrated to be made available at the time of contracting; and
  - D) a record of past performance of similar work.
- i) Pre-Proposal Conference

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

A pre-proposal conference, if appropriate, shall be conducted in accordance with Section 1600.2010(f) (Pre-Bid Conference). Such a conference may be held anytime prior to the date established for submission of proposals.

- j) Delivery, Receipt and Handling of Proposals
  - 1) Proposals shall be submitted to and opened by the CPO.
  - 2) Public Opening
    - A) Proposals and modifications shall be opened publicly at the time, date and place designated in the Request for Proposals.
    - B) Opening shall be witnessed by a State employee or by any other person present, but the person opening proposals shall not serve as witness. A record shall be prepared that shall include the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the supply or service item offered. The record of proposals shall be open to public inspection after award of the contract.
    - C) Proposals and modifications shall be opened in a manner designed to avoid disclosing contents to competitors. Only State personnel and contractual agents may review the proposals prior to award.
    - D) Proposals of offerors who are not awarded the contract shall not be open to public inspection.
- k) Discussions
  - 1) Discussions Permissible. The Procurement Officer may conduct discussions with any offeror to:
    - A) determine in greater detail such offeror's qualifications; and
    - B) explore with the offeror the scope and nature of the required services, the offeror's proposed method of performance, and the relative utility of alternative methods of approach. The Procurement Officer may allow changes to the proposal based on those discussions.
  - 2) No Disclosure of Information. Discussions shall not disclose any information derived from proposals submitted by other offerors, and the agency conducting the procurement shall not disclose any information contained in any proposals until after award of the proposed contract has been made. The proposal of the offeror awarded the contract shall be open to public inspection except as otherwise provided in the contract.
- l) Selection of the Best Qualified Offerors
  - After conclusion of validation of qualifications, evaluation, and discussion, the Procurement Officer shall rank the acceptable offerors in the order of their respective qualifications.
- m) Evaluation of Pricing Data
  - Pricing submitted for all acceptable proposals shall be opened and ranked.

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

- 1) If the low price is submitted by the most qualified vendor, the Procurement Officer may award to that vendor.
- 2) If the price of the most qualified vendor is not low and if it does not exceed \$25,000, the Procurement Officer may award to that vendor.
- 3) If the price of the best qualified vendor exceeds \$25,000, the Procurement Officer must state why a vendor other than the low priced vendor was selected and that determination shall be published in the Bulletin.
- n) Negotiation and Award of Contract
  - 1) General. The Procurement Officer shall attempt to negotiate a contract with the best qualified offeror for the required services at fair and reasonable compensation. The Procurement Officer may, in the interest of efficiency, negotiate with other vendors, while negotiating with the best qualified vendor.
  - 2) Elements of Negotiation. At a minimum, contract negotiations shall be directed toward:
    - A) making certain that the offeror has a clear understanding of the scope of the work, specifically, the essential requirements involved in providing the required services;
    - B) determining that the offeror will make available the necessary personnel and facilities to perform the services within the required time; and
    - C) agreeing upon compensation that is fair and reasonable, taking into account the estimated value of the required services and the scope, complexity, and nature of such services.
  - 3) Successful Negotiation of Contract with Best Qualified Offeror
    - A) If compensation, contract requirements, and contract documents can be agreed upon with the best qualified offeror, the contract shall be awarded to that offeror, unless the procurement is canceled.
    - B) Compensation must be determined in writing to be fair and reasonable. Fair and reasonable compensation shall be determined by the Procurement Officer based on the circumstances of the particular procurement, including but not limited to the nature of the services needed, qualifications of the offerors, consideration of range of prices received in the course of the procurement, and the agency's identified budget.
  - 4) Failure to Negotiate Contract with Best Qualified Offeror
    - A) If compensation, contract requirements, or contract documents cannot be agreed upon with the best qualified offeror, a written record stating the reasons therefore shall be placed in the file. The Procurement Officer shall advise such offeror of the termination of negotiations.
    - B) Upon failure to negotiate a contract with the best qualified offeror, the Procurement Officer may enter into negotiations

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

- with the next most qualified offeror.
- C) Nothing in this Section shall prohibit the Procurement Officer from making a selection that represents the best value, qualifications, price and other relevant factors established in the request for proposals being considered. The Procurement Officer may, in considering best value, determine the proposal from a fully qualified vendor that submitted the lowest price to be the best value without further evaluation.
- o) The Procurement Officer procuring professional and artistic services, including those under an exception described in subsection (e), shall provide to CMS the information necessary for publication in the Bulletin.
- p) Notice of Award. Written notice of award shall be public information and made a part of the contract file. Publication shall be in the next available issue of the Bulletin.
- q) Post Performance Review. The Purchasing Officer shall provide a synopsis of the contract and shall rate the vendor's performance. A copy of the completed form shall be maintained in the files of the CPO.

Section 1600.2036 Other Methods of Source Selection  
EMERGENCY

- a) Split Award
  - 1) An award of a definite quantity requirement may be split between bidders or offerors. Each portion shall be for a definite quantity and the sum of the portions shall be the total definite quantity required. A split award may be used only when award to more than one bidder or offeror for different amounts of the same item are necessary to obtain the total quantity or the required delivery.
  - 2) The Procurement Officer shall make a written determination setting forth the reasons for the split award, which determination shall be made a part of the procurement file.
- b) Multiple Award
  - 1) A multiple award is an award of an indefinite quantity contract to more than one bidder or offeror when the State is obligated to order all of its actual requirements from those vendors.
  - 2) A multiple award may be made when award to two or more bidders or offerors for similar products is necessary for adequate delivery, service, or product compatibility. Any multiple award shall be made in accordance with the provisions of Section 1600.2010 (Competitive Sealed Bidding), Section 1600.2015 (Competitive Sealed Proposals), Section 1600.2020 (Small Purchases), and Section 1600.2030 (Emergency Procurements), as applicable. Awards shall not be made for the purpose of simply dividing the business or to select products or suppliers to allow for user



## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

preference unrelated to utility or economy. Any such awards shall be limited to the least number of suppliers necessary to meet the valid requirements of State agencies.

- 3) The OUG shall reserve the right to take bids separately if a particular quantity requirement arises that exceeds its normal requirement or an amount specified in the contract.
- 4) If a multiple award is anticipated, the solicitation shall state this fact as well as the criteria for award.
- 5) In a multiple award situation, one vendor may be designated as the primary recipient of orders. The other awardees may receive orders in the event the primary vendor is unable to deliver or for other reasons as determined by the Procurement Officer.

## c) Master Contracts

- 1) A master contract contains agreed contractual terms and conditions established for the convenience of the parties to be used in conjunction with a subsequent procurement and processed in accordance with the requirements of the Code and this Part. A master contract is not a procurement. It creates no obligation on the part of the OUG to procure from the vendor.
- 2) Orders may be placed against master contracts without use of any prescribed method of source selection for convenience of processing small procurements.

## d) Auction

Purchases may be made at auction in accordance with the procedural requirements applicable to the particular auction. Notice and competition is not required and the amount payable shall be the amount bid and accepted plus any required buyer's premium.

## e) Federal Requirements

The Procurement Officer receiving federal aid funds, grants or loans may conduct procurements in accordance with federal requirements that are necessary to receive or maintain those federal aid funds, grants or loans.

## f) Donations

- 1) When a procurement will have the majority of funding from a donation, the terms of which donation require use of particular procurement or contracting procedures, the Procurement Officer may follow those procedures, but shall follow the Code and this Part whenever practicable.
- 2) Donations may be acknowledged by the donee agency in a manner appropriate to the type of donation and the program activity associated with the donation. Acknowledgment may include, but need not be limited to, public announcement at the event or in donee agency publications, and inviting the donor to attend the program activity associated with the donation.

## Section 1600.2037 Tie Bids and Proposals

## EMERGENCY

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

a) Tie bids or proposals are those from responsive and responsible vendors that are identical in price or evaluation and represent the low price.

b) Tie bids or proposals will be treated as follows:

- 1) If the tied vendors include an Illinois resident vendor, the Illinois resident vendor shall be given the award. In all other situations, including if two or more Illinois resident bidders are tied, the decision shall be made in accordance with this subsection (b). "Illinois resident vendor" has the meaning given in Section 1600.4510 (Resident Bidder Preference) of this Part.
- 2) If there is a significant difference in responsibility (including ability to provide the service or deliver in the quantity and at the time required), the award will be made to the vendor who is deemed to be the most responsible. A vendor who has had experience in contracting with the State shall be given additional consideration in determining responsibility if the Procurement Officer determines that dealing with a vendor that has knowledge of State requirements, contracts, job sites, payment practices and such other factors and with which there has been favorable past experience increases the likelihood of successful performance.
- 3) If there is no significant difference in responsibility, but there is a difference in the quality of the supplies or services offered, the vendor offering the best quality will be accepted.
- 4) If there is no significant difference in responsibility and no difference in quality of the supplies or services offered, the vendor offering the earliest delivery time will be accepted in any case in which the solicitation specified that the needs of the agency require delivery as early as possible.
- 5) If the bids or proposals are equal in every respect, the award shall be made by lot unless the Procurement Officer determines that splitting the award among two or more of the tied bidders is in the best interest of the State. Awards may be split if all affected bidders agree, if splitting is feasible given the type of supplies or services requested, if overall pricing would not increase, if delivery would be better ensured, or if necessary or desirable to promote future competition.
- c) Record. Each SPO shall provide a report to the CPO on a quarterly basis of all procurements on which tie bids or proposals were received. The report shall provide at least the following information:
  - 1) the identification number of the solicitation;
  - 2) a description of what was procured; and
  - 3) a listing of all the bidders and the prices submitted.

## Section 1600.2038 Mistakes

## EMERGENCY

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

- a) General. Corrections to bids, proposals or other procurement processes are allowed, but only to the extent not contrary to the best interest of the State or the fair treatment of other bidders.
- b) Mistakes Discovered Before Opening. A vendor may correct mistakes discovered before the time and date set for opening by withdrawing or correcting as provided in this Section.
- c) Confirmation of Mistake. When the Procurement Officer knows or has reason to conclude that a mistake has been made, such officer shall request the vendor to confirm the information. Situations in which confirmation should be requested include obvious or apparent errors on the face of the document or a price unreasonably lower than the others submitted. If the vendor alleges a mistake, the bid or proposal may be corrected or withdrawn if the conditions set forth in this Section, as applicable, are met.
- d) Mistakes in Bids Discovered After Opening but Before Award. This subsection (d) sets forth procedures to be applied in situations in which mistakes in bids are discovered after the time and date set for bid opening but before award.

- 1) Minor Informalities. A minor informality or irregularity is one that is a matter of form or pertains to some immaterial or inconsequential defect or variation of a bid from the exact requirement of the Invitation for Bids, the correction or waiver of which would not be prejudicial to the State (i.e., the effect on price, quality, quantity, delivery, or contractual conditions is negligible). The Procurement Officer shall waive such informalities or allow the bidder to correct them depending on which is in the best interest of the State. Examples of minor informalities as to form include the failure of a bidder to:
  - A) return the number of signed bids required by the Invitation for Bids;
  - B) acknowledge receipt of an amendment to the Invitation for Bids, but only if:
    - i) it is clear from the bid that the bidder received the amendment and intended to be bound by its terms; or
    - ii) the amendment involved had a negligible effect on price, quantity, quality, or delivery.

- 2) Mistakes Where Intended Correct Bid Is Evident. If the mistake and the intended correct bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors.
- 3) Mistakes Where Intended Correct Bid Is Not Evident. A bidder may be permitted to withdraw a low bid if:
  - A) a mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
  - B) the bidder submits proof of evidentiary value that clearly

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

- e) Mistakes in Proposals Discovered After Receipt, but Before Award. This subsection (e) sets forth procedures to be applied in four situations in which mistakes in proposals are discovered after receipt of proposals but before award.
- 1) During Discussions; Prior to Best and Final Offers. Once discussions are commenced with any offeror or after best and final offers are requested, any offeror may freely correct any mistake prior to the date set for conclusion of discussions or for receipt of best and final offers.
  - 2) Minor Informalities. Minor informalities, unless otherwise corrected by an offeror as provided in this Section, shall be treated as they are under subsection (d).
  - 3) Correction of Mistakes. If discussions are not held or if the best and final offers upon which award will be made have been received, mistakes may be corrected and the intended correct offer considered only if:
    - A) the mistake and the intended correct offer are clearly evident on the face of the proposal, in which event the proposal may not be withdrawn; or
    - B) the mistake is not clearly evident on the face of the proposal, but the offeror submits adequate proof that clearly and convincingly demonstrates both the existence of a mistake and the intended correct offer, and such correction would not be contrary to the fair and equal treatment of other offerors.
  - 4) Withdrawal of Proposals. If discussions are not held, or if the best and final offers upon which award will be made have been received, the offeror may be permitted to withdraw the proposal if:
    - A) the mistake is clearly evident on the face of the proposal and the intended correct offer is not;
    - B) the offeror submits proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made but does not demonstrate the intended correct offer; or
    - C) the offeror submits adequate proof that clearly and convincingly demonstrates the intended correct offer, but to allow corrections would be contrary to the fair and equal treatment of other offerors.
  - f) Mistakes Discovered After Award. Mistakes shall not be corrected after award of the contract except where the Procurement Officer finds it would be unconscionable (e.g., if the mistake resulted in a windfall to the State) not to allow the mistake to be corrected.
  - g) Determinations Required. When a proposal is corrected or withdrawn, or correction or withdrawal is denied, a written determination shall be prepared showing that relief was granted or denied in accordance with this Part. The Procurement Officer shall prepare the determination.

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

# Section 1600.2040 Cancellation of Solicitations; Rejection of Bids or Proposals

## EMERGENCY

- a) Scope of this Section  
The provisions of this Section shall govern the cancellation of any solicitations whether issued by the State under competitive sealed bidding, competitive sealed proposals, small purchases, or any other source selection method, and rejection of bids or proposals in whole or in part.
- b) Policy  
Any solicitation may be canceled when the Procurement Officer believes cancellation to be in the State's best interest. Nothing shall compel the award of a contract.
- c) Cancellation of Solicitation; Rejection of All Bids or Proposals Prior to Opening
  - 1) As used in this Section, "opening" means the date set for opening of bids, receipt of unpriced technical offers in multi-step sealed bidding, or receipt of proposals in competitive sealed proposals.
  - 2) Prior to opening, a solicitation may be canceled in whole or in part when the Procurement Officer determines in writing that such action is in the State's best interest for reasons including, but not limited to:
    - A) the OLG no longer requires the supplies or services;
    - B) the OLG no longer can reasonably expect to fund the procurement; or
    - C) proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable.
  - 3) When a solicitation is canceled prior to opening, notice of cancellation shall be sent to all businesses that responded to the solicitation.
  - 4) The notice of cancellation shall:
    - A) identify the solicitation;
    - B) briefly explain the reason for cancellation; and
    - C) where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurements of similar supplies or services.
- d) Cancellation of Solicitation; Rejection of All Bids or Proposals After Opening
  - 1) After opening but prior to award, all bids or proposals may be rejected in whole or in part when the Procurement Officer determines in writing that such action is in the State's best interest. Such reasons may include, but are not limited to:
    - A) the supplies or services being procured are no longer required;
    - B) ambiguous or otherwise inadequate specifications were part of the solicitation;

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

- C) the solicitation did not provide for consideration of all factors of significance to the State;
- D) prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
- E) all otherwise acceptable bids or proposals received are at clearly unreasonable prices; or
- F) there is reason to question whether the bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith.
- 2) When the solicitation is canceled or when all bids or proposals are rejected, all vendors who submitted bids or proposals shall be sent a notice upon request informing them of the reasons for the cancellation or rejection.
- e) Documentation. The reasons for cancellation or rejection shall be made a part of the procurement file and shall be available for public inspection.
- f) Rejection of Individual Bids or Proposals
  - 1) General. This subsection (f) applies to rejections of individual bids or proposals in whole or in part.
  - 2) Notice in Solicitation. Each solicitation shall provide that any bid or proposal may be rejected in whole or in part when in the best interest of the State as provided in this Section.
  - 3) Reasons for Rejection
    - A) the business that submitted the bid or proposal is nonresponsible as determined under Section 1600.2046 (Responsibility) of this Part;
    - B) the bid or proposal is not responsive, that is, it does not conform in all material respects to the solicitation;
    - C) the proposal ultimately (that is, after any opportunity has passed for altering or clarifying the proposal) fails to meet the announced requirements of the State in some material respect;
    - D) the supply or service item offered in the bid is unacceptable by reason of its failure to meet the requirements of the specifications or permissible alternates or other acceptability criteria set forth in the Invitation for Bids; or
    - E) the proposed price is clearly unreasonable.
  - 4) Notice of Rejection. Upon request, unsuccessful bidders or offerors shall be advised of the reasons for rejection.

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

## Section 1600.2043 Suppliers



## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

## EMERGENCY

- a) The OLG may contract with any qualified source of supply, but should give preference to Directed Sources, and should consider the following Special Sources.
- b) Directed Sources -- State-Produced Supplies or Services
  - 1) Correctional Industries. The CPO, after consulting with the Department of Corrections, shall determine the type and extent of the preference purchasing agencies shall give to supplies produced or services performed by Correctional Industries. Factors to be considered in determining the preference include, but are not limited to, the ability of Correctional Industries to meet the OLG's requirements, the price charged and the reason for the Correctional Industries program.
  - 2) Central Services. Supplies and services available from the program operations CMS shall be utilized unless the CPO authorizes procurement from other sources.
- c) Special Sources
  - 1) Prior to any equipment procurement, the OLG will consider property available from the State and Federal Surplus Warehouses, which are under the jurisdiction of CMS.
  - 2) Various supplies and services are available from qualified workshops for the disabled and procurement from these workshops is encouraged. Notice and competition is not required pursuant to Section 45-35 of the Code.
  - 3) Various supplies and services are available from State agencies and other governmental units. These may be procured without notice and competition.

## Section 1600.2045 Responsibility

## EMERGENCY

- a) Application
 

Contracts are to be made only with responsible vendors unless no responsible vendor is available to meet the State's needs. If there is doubt about responsibility, and if a bond or other security would adequately protect the State's interests, then that vendor may be awarded a contract upon receipt of the bond or other security.
- b) Standards of Responsibility
  - 1) Standards. Factors to be considered in determining whether the standard of responsibility has been met include whether a prospective vendor:
    - A) has available the appropriate financial, material, equipment, facility, and personnel resources and expertise (or the ability to obtain them) necessary to indicate its capability to meet all contractual requirements (the Procurement Officer may designate a level of financial resource below which the vendor will be deemed "not responsible");
    - B) is able to comply with required or proposed delivery or performance schedules, taking into consideration all existing commercial and governmental commitments;
    - C) has a satisfactory record of performance. Vendors who are or have been deficient in current or recent contract performance in dealing with the State or other customers may be deemed "not responsible" unless the deficiency is shown to have been beyond the reasonable control of the vendor;
    - D) has a satisfactory record of integrity and business ethics. Vendors who are under investigation or indictment for criminal or civil actions that bear on the particular procurement or that create a reasonable inference or appearance of a lack of integrity on the part of the vendor may be declared not responsible for the particular procurement;
    - E) is qualified legally to contract with the State;
    - F) has supplied all necessary information in connection with the inquiry concerning responsibility;
    - G) has a current Public Contracts number from the Illinois Department of Human Rights, pursuant to 44 Ill. Adm. Code 750.210, if required. Proof of application prior to opening of bids or proposals will be sufficient for an initial determination; and
    - H) pays prevailing wages, if required by law.
  - 2) Information Pertaining to Responsibility. The prospective vendor shall supply information requested by the Procurement Officer concerning the responsibility of such vendor. The State may supplement this information from other sources and may require additional documentation at any time. If such vendor fails to supply the requested information, the Procurement Officer shall base the determination of responsibility upon any available information, or may find the prospective vendor nonresponsible.
  - c) Ability to Meet Standards
 

The prospective vendor may demonstrate the availability of necessary financing, equipment, facilities, expertise, and personnel by submitting upon request:

    - 1) evidence that such vendor possesses such necessary items;
    - 2) acceptable plans to subcontract for such necessary items; or
    - 3) a documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items.
  - d) Duty Concerning Responsibility
 

Before awarding a contract, the Procurement Officer must be satisfied that the prospective vendor is responsible. Responsibility can be proven until time of contract execution unless the solicitation or other law requires that the vendor submit information necessary to determine responsibility by a stated date or time.
  - e) Written Determination of Nonresponsibility Required

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

- B) is able to comply with required or proposed delivery or performance schedules, taking into consideration all existing commercial and governmental commitments;
- C) has a satisfactory record of performance. Vendors who are or have been deficient in current or recent contract performance in dealing with the State or other customers may be deemed "not responsible" unless the deficiency is shown to have been beyond the reasonable control of the vendor;
- D) has a satisfactory record of integrity and business ethics. Vendors who are under investigation or indictment for criminal or civil actions that bear on the particular procurement or that create a reasonable inference or appearance of a lack of integrity on the part of the vendor may be declared not responsible for the particular procurement;
- E) is qualified legally to contract with the State;
- F) has supplied all necessary information in connection with the inquiry concerning responsibility;
- G) has a current Public Contracts number from the Illinois Department of Human Rights, pursuant to 44 Ill. Adm. Code 750.210, if required. Proof of application prior to opening of bids or proposals will be sufficient for an initial determination; and
- H) pays prevailing wages, if required by law.
- 2) Information Pertaining to Responsibility. The prospective vendor shall supply information requested by the Procurement Officer concerning the responsibility of such vendor. The State may supplement this information from other sources and may require additional documentation at any time. If such vendor fails to supply the requested information, the Procurement Officer shall base the determination of responsibility upon any available information, or may find the prospective vendor nonresponsible.
- c) Ability to Meet Standards
 

The prospective vendor may demonstrate the availability of necessary financing, equipment, facilities, expertise, and personnel by submitting upon request:

  - 1) evidence that such vendor possesses such necessary items;
  - 2) acceptable plans to subcontract for such necessary items; or
  - 3) a documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items.
- d) Duty Concerning Responsibility
 

Before awarding a contract, the Procurement Officer must be satisfied that the prospective vendor is responsible. Responsibility can be proven until time of contract execution unless the solicitation or other law requires that the vendor submit information necessary to determine responsibility by a stated date or time.
- e) Written Determination of Nonresponsibility Required

OFFICE OF THE LT. GOVERNOR  
NOTICE OF EMERGENCY RULES

If a vendor who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the CPO or the SPO. The final determination shall be made part of the procurement file.

- f) Bond for Responsibility  
Vendors not having a history of performance may be considered responsible if no other disqualifying factors exist. A bond or other security may be required of such vendors.
- g) Affiliated Companies  
Vendors who are newly formed business concerns having substantially the same owners, officers, directors, or beneficiaries as a previously existing vendor that has been determined not responsible will also be determined not to be responsible unless the new organization can prove it was not set up for the purpose of avoiding an earlier determination of nonresponsibility.

SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

**Section 1600.2047 Security Requirements**  
**EMERGENCY**

- a) A Procurement Officer may require that a vendor furnish bid, proposal, or performance security on OLG contracts. Whenever security is required, except as provided herein, the procurement document will clearly indicate the type and amount of security.
- b) Security, unless otherwise specified, may be in the form of cashier's check, certified check, money order, irrevocable letter of credit or bond. Any bond must be issued by a surety company authorized to do business in the State of Illinois.
- c) Unless the amount is set by law, the Procurement Officer will determine the amount, in dollars or percentage of contract price, that will adequately protect the State's interests. That amount will vary depending on the type of procurement and the risks and potential losses associated with delay or failure to complete the project, and for other such reasons.
- d) A vendor may be required to furnish up to 100% performance security at any time during contract performance and at its cost, if it appears that delivery or production schedules cannot be met, quality is poor, responsibility is questioned and for similar reasons.
- e) Bid or proposal security will be returned to unsuccessful vendors as soon after award as possible. The bid or proposal security of the successful vendor will be returned after contracts have been signed and performance security, if any, submitted. Performance security will be returned upon full performance.

SUBPART H: SPECIFICATIONS

OFFICE OF THE LT. GOVERNOR  
NOTICE OF EMERGENCY RULES

**Section 1600.2050 Specifications**  
**EMERGENCY**

- a) The OLG may use specifications or qualified products lists established or used by CMS.
- b) Brand Name or Equal Specification
  - 1) Brand name or equal specifications may be used when the Procurement Officer determines in writing that:
    - A) no specification for a common or general use specification or qualified products list is available;
    - B) time does not permit the preparation of another form of specification, not including a brand name specification;
    - C) the nature of the product or the nature of the State's requirement makes use of a brand name or equal specification suitable for the procurement; or
    - D) use of a brand name or equal specification is in the State's best interest.
  - 2) Brand name or equal specifications shall seek to designate more than one brand as "or equal", and shall further state that substantially equivalent products to those designated will be considered for award.
  - 3) Unless the Procurement Officer determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics that are required.
  - 4) Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. "Or equal" submissions will not be rejected because of minor differences in design, construction or features that do not affect the suitability of the product for its intended use. Burden of proof that the product is equal is on the bidder.
- c) Brand Name Only Specification
  - 1) Determination. A brand name only specification may be used only when the Procurement Officer makes a written determination that only the identified brand name item or items will satisfy the State's needs.
  - 2) Use. Brand name alone may be specified in order to fill medical prescription needs, to stock State retail-type operations, to ensure compatibility in existing systems, to preserve warranty, to ensure maintenance, or as authorized in writing by the CPO. An agency may, pursuant to an authorized competitive procedure, select a particular vendor to provide supplies or services for a specified period of time, and for that period the supplier of

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

additional, related and updated supplies and services may be limited to the selected vendor or the brand initially selected.

- 3) Competition. The Procurement Officer shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 1600.2025 (Sole Source Procurement) of this Part.

- d) Proven Products

The supply or service may be rejected if it has not been offered to other governmental or commercial accounts for at least one year. Specifications may require that the supply or services must have been used in business or industry for a specified period of time to be considered.

## SUBPART I: CONTRACT TYPE

### Section 1600.2055 Types of Contracts EMERGENCY

- a) Scope  
This Section contains descriptions of types of contracts and limitations as to when they should be utilized by the State in its procurements. Types of contracts not mentioned in this Section may also be utilized.
- b) Prohibition of Cost-Plus-a-Percentage-of-Cost Contracting  
The cost-plus-a-percentage-of-cost contract is prohibited by Section 20-55 of the Illinois Procurement Code. This type of contracting may not be used alone or in conjunction with an authorized type of contract. A cost-plus-percentage-of-cost contract is one in which the vendor selects the supply or service on which the vendor's percentage is applied.
  - 1) A percentage mark-up from an agreed price list is not a cost-plus-a-percentage-of-cost contract.
  - 2) A percentage mark-up from the price of a supply or service selected by the State or another vendor under contract to the State is not a cost-plus-a-percentage-of-cost contract.
- c) Types of Fixed-Price Contracts
  - 1) Firm Fixed-Price Contract. A firm fixed-priced contract provides a price that is not subject to adjustment because of variations in the vendor's cost of performing the work specified in the contract.
  - 2) Fixed-Price Contract with Price Adjustment
    - A) A fixed-price contract with price adjustment provides for variation in the contract price under special conditions defined in the contract, other than customary provisions authorizing price adjustments due to modifications to the work. The formula or other basis by which the adjustment in

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

the vendor's price can be made shall be specified in the solicitation and the resulting contract. Adjustment allowed may be upward or downward only, or both upward and downward. Examples of conditions under which adjustments may be provided in fixed-price contracts are:

- i) changes in the vendor's labor agreement rates as applied to an industry or area (such as are frequently found in contracts for the purchase of coal);
  - ii) changes due to rapid and substantial price fluctuations that can be related to an accepted index (such as contracts for gasoline, heating oils, and dental gold alloy); and
  - iii) in requirement contracts, where a vendor is selected to provide all of the State's needs for the items specified in the contract, when a general price change applicable to all customers occurs, or when a general price change alters the base price (such as a change in a manufacturer's published price list or posted price to which a fixed discount is applied pursuant to the contract to determine the contract price).
- B) If the contract permits unilateral action by the vendor to bring about the condition under which a price increase may occur, the State shall have the right to reject the price increase and terminate without cost the future performance of the contract.

- d) Cost-Reimbursement Contracts

- 1) Determination Prior to Use
  - A) A cost-reimbursement type contract may be used only when the Procurement Officer determines in writing that such a contract is likely to be less costly to the State than any other type or that it is impracticable to obtain the items.
  - B) Reimbursement of travel expenses in accordance with applicable travel control board regulations is authorized without further determinations.
- 2) Cost Contract. A cost contract provides that the vendor will be reimbursed for allowable costs incurred in performing the contract, but will not receive a fee.
- 3) Cost-Plus-Fixed-Fee Contract. This is a cost-reimbursement type contract that provides for payment to the vendor of an agreed fixed fee in addition to reimbursement of allowable incurred costs. The fee is established at the time of contract award and does not vary if the actual cost of contract performance is greater or less than the initial estimated cost established for such work. Thus, the fee is fixed but not the contract amount because the final contract amount will depend on the allowable costs reimbursed. The fee is subject to adjustment only if the contract is modified to provide for an increase or decrease in the scope of work specified in the contract.



## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

## 4) Cost Incentive Contracts

A) General. A cost-incentive type of contract provides for the reimbursement to the vendor of allowable costs incurred up to the ceiling amount and establishes a formula whereby the vendor is rewarded for performing at less than target cost (that is, the parties' agreed best estimate of the cost of performing the contract will vary inversely with the actual, allowable costs of performance and consequently is dependent on how effectively the vendor controls cost in the performance of the contract).

B) Fixed-Price Cost-Incentive Contract. In a fixed-price cost-incentive contract, the parties establish at the outset a target cost, a target profit (that is, the profit that will be paid if the actual cost of performance equals the target cost), a formula that provides a percentage increase or decrease of the target profit depending on whether the actual cost of performance is less than or exceeds the target cost, and a ceiling price. After performance of the contract, the actual cost of performance is arrived at based on the total incurred allowable costs as provided in the contract. The final contract price is then established in accordance with the formula using the actual cost of performance. The final contract price may not exceed the ceiling price. The vendor is obligated to complete performance of the contract, and, if actual costs exceed the ceiling price, the vendor suffers a loss.

C) Cost-Reimbursement Contract with Cost-Incentive Fee. In a cost-reimbursement contract with cost-incentive fee, the parties establish at the outset a target cost; a target fee; a formula for increase or decrease of fee depending on whether actual cost of performance is less than or exceeds the target cost, with maximum and minimum fee limitations; and a cost ceiling that represents the maximum amount that the State is obligated to reimburse the vendor. The vendor continues performance until the work is complete or costs reach the ceiling specified in the contract, including any modification thereof, whichever first occurs. After performance is complete or costs reach the ceiling, the total incurred, allowable costs reimbursed as provided in the contract are applied to the formula to establish the incentive fee payable to the vendor.

## e) Performance Incentive Contracts

In a performance incentive contract, the parties establish at the outset a pricing basis for the contract, performance goals, and a formula that varies the profit or the fee if the specified performance goals are exceeded or not met. For example, early completion may entitle the vendor to a bonus, while late completion may entitle the State to a price decrease.

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

## f) Time and Materials Contracts; Labor Hour Contracts

Time and materials contracts provide an agreed basis for payment for materials supplied and labor performed. Labor hour contracts provide only for the payment of labor performed. Such contracts shall, to the extent possible, contain a stated ceiling or an estimate that shall not be exceeded without prior State approval.

## g) Definite Quantity and Indefinite Quantity Contracts

1) Definite Quantity. A definite quantity contract is a fixed-price contract that provides for delivery of a specified quantity of supplies or services either at specified times or when ordered.

2) Indefinite Quantity. An indefinite quantity contract is a contract for an indefinite amount of supplies or services to be furnished at specified times, or as ordered, that establishes unit prices of a fixed-price type. Generally an approximate quantity or the best information available as to quantity is stated in the solicitation. The contract may provide a minimum quantity the State is obligated to order and may also provide for a maximum quantity provision that limits the State's obligation to order.

3) Requirements Contracts. A requirements contract is an indefinite quantity contract for supplies or services that specifically obligates the State to order all the actual requirements of designated State agencies during a specified period of time.

## h) Leases

A lease is a contract for the use of supplies or real property under which title will not pass to the State at any time, except pursuant to an option to purchase.

## i) Recovery Contracts

Contracts may provide for payment to the vendor of a percentage of the amount the vendor recovers or collects on behalf of the State. The percentage may be fixed or may vary depending on amount of recovery or other factors, and the percentage may be paired with a fixed price or cost reimbursement method.

## j) Option Provisions

1) Contract Provision. When a contract is to contain an option for renewal, extension, or purchase, notice of such provision shall be included in the solicitation. These options may be exercised without taking other procurement action when the option is established for exercise at the OLG's option, and there is no material change in the terms and conditions or any such change is dependent on a fixed formula or standard established in the original contract.

2) Lease with Purchase Option. A purchase option in a lease may be exercised only if the lease containing the purchase option was awarded under competitive sealed bidding or competitive sealed proposals, the leased supply or facility is the only supply or facility that can meet the State's requirements, the purchase option price is less than the small purchase limit or emergency

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

conditions exist.

- k) State Produced Supplies and Services  
Notwithstanding any provision in any contract, supplies or services available from the State's own programs, such as Correctional Industries, may be ordered without violating any contract.

- 1) Extraordinary Quantities

Notwithstanding any provision in any contract, the State reserves the right to take bids separately if a particular quantity requirement arises that exceeds the State's normal needs or ordering requirements.

- m) Energy Conservation

The CPO may authorize an IFB, RFP or sole source negotiation for energy conservation measures whereby the OLG would make payment based on utility cost savings. Such contract shall require a clearly defined baseline of energy usage and method of measuring cost savings taking into account at least differing weather conditions, changes in facility, usage and cost of energy.

## SUBPART J: DURATION OF CONTRACTS

Section 1600.2060 Duration of Contracts - General  
EMERGENCY

- a) General

- 1) A multi-term contract for a term up to 10 years is authorized when determined by the Procurement Officer to be in the best interest of the State.

- 2) The length of the payment term of bonds issued by or on behalf of a State agency shall be limited as provided in the statute authorizing the issuance of the bonds.

- 3) A software license may have a term longer than 10 years, including for a perpetual term, provided the payment term is limited to no more than 10 years.

- b) The contractual obligation of both parties in each fiscal period succeeding the first is subject to appropriation and availability of funds. The contract shall provide that, in the event that funds are not available for any succeeding fiscal period, the remainder of such contract shall be canceled without penalty to, or further payment being required by, the State. This provision applies to only those contracts that are funded in whole or in part by funds appropriated by the Illinois General Assembly or other governmental entity.

- c) Conditions for Use of Multi-Term Contracts

A multi-term contract may be used when:

- 1) special production of definite quantities or the furnishing of long-term services is required to meet State needs; or  
2) a multi-term contract will serve the best interests of the State by encouraging effective competition or otherwise promoting economies in State procurement.

- d) Multi-Term Contract Procedure

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

The solicitation shall state:

- 1) the proposed term;
- 2) the amount of supplies or services required for the proposed contract period;
- 3) the type of pricing requested (e.g., firm for term);
- 4) how award will be determined.

## e) Renewals

- 1) When the original procurement specifically called for an initial term plus renewals, the renewals may be exercised without further procurement activity, provided the initial term and the exercised renewals may not exceed 10 years, the terms and conditions do not change except as provided in the contract (such as price escalations tied to an index) and the option is reserved solely to the State. A renewal option that requires modification to a material term or condition of the contract shall be treated as a new contract and shall be subject to competitive procurement procedures established by the Code and this Part.

- 2) When the original procurement was silent as to renewals, the renewal must be procured using one of the methods of source selection authorized by the Code and this Part. This renewal shall start a new term not to exceed 10 years.

- 3) Where a renewal will result in the total term, counting the initial term and any previous renewals, to exceed 10 years, the renewal must be procured using one of the methods of source selection authorized by the Code and this Part. This renewal will start a new term that shall not exceed 10 years.

## SUBPART K: CONTRACT MATTERS

Section 1600.2560 Prevailing Wage  
EMERGENCY

- a) For the following classifications and if competition exists, no bidder will be awarded a contract unless its employees are paid wages and benefits and are working under conditions prevalent in the location where the work is to be performed.

- 1) Public works

- 2) Printing

- 3) Janitorial services, window washing and security guard services having a monthly contract price of \$200 or a yearly price of \$2,000.

- b) Prevailing wage and conditions prevalent means the hourly wage rate, overtime, holiday pay, pension, welfare, premium differential, vacation pay and other benefits received by employees and the environmental conditions under which they work.

- c) Prevailing Wage Rates

- 1) Prevailing wage rates, benefits and conditions will be those in effect on the first date of the contract, provided that, if the

OFFICE OF THE LT. GOVERNOR  
NOTICE OF EMERGENCY RULES

rate changes during the contract term and the amount of change is known before execution of the contract, then the contract rate will vary in like amount.

- 2) If the change in the collective bargaining agreement cannot be determined in advance, the contract will be changed by the amount of the change in wage rate and all components of price that are dependent on the usage rate, such as payroll taxes, worker's compensation insurance, vacation, sick days, and pension, provided that profit shall not increase due to prevailing wage increases. The using agency shall have the option to cancel the contract if the new price is unacceptable.
- 3) If the initial prevailing wage, etc., cannot be determined prior to execution, contracts may be entered into and will remain valid for the stated term.
- d) If a collective bargaining agreement is in effect governing the type of printing, janitorial, window washing or security guard service sought, that agreement will define minimum wages, benefits and conditions that must be paid in order for a bidder to be considered responsible.
- e) For public works, location means the county where the physical work upon public works is performed, except that if there is not available in the county a sufficient number of competent skilled laborers, workers and mechanics to construct the public works efficiently and properly, "locality" includes any other county nearest the one in which the work or construction is to be performed and from which such persons may be obtained in sufficient numbers to perform the work.
- f) For printing contracts, location means one of the following areas:
  - 1) Cook County;
  - 2) Boone, Bureau, Carroll, Champaign, DeKalb, DeWitt, DuPage, Ford, Fulton, Grundy, Hancock, Henderson, Henry, Iroquois, Jo Daviess, Kane, Kankakee, Kendall, Knox, Lake, LaSalle, Lee, Livingston, Logan, Marshall, Mason, McDonough, McHenry, McLean, Mercer, Ogle, Peoria, Piatt, Putnam, Rock Island, Schuyler, Stark, Stephenson, Tazewell, Vermilion, Warren, Whiteside, Will, Winnebago, and Woodford counties;
  - 3) Adams, Alexander, Bond, Brown, Calhoun, Cass, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Franklin, Gallatin, Greene, Hamilton, Hardin, Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Macon, Macoupin, Madison, Marion, Massac, Menard, Monroe, Montgomery, Morgan, Moultrie, Perry, Pike, Pope, Pulaski, Randolph, Richland, Saline, Sangamon, Scott, Shelby, St. Clair, Union, Wabash, Washington, Wayne, White, and Williamson counties.
  - 4) Where the printing is performed in a plant outside the jurisdiction of this State, it shall be deemed produced in the Illinois locality in which delivery of the printing ordered is required to be made. Where such printing is required to be delivered to more than one Illinois locality, such printing shall

- g) be deemed produced in the Illinois locality to which the largest dollar volume of printing under the contract is to be delivered.
- h) For janitorial services, window washing and security guard services, location means the county in which the work is to be performed.
- h) Prevailing wages, benefits and conditions will be determined by the Illinois Department of Labor.

**Section 1600.2570 Equal Employment Opportunity; Affirmative Action  
EMERGENCY**

- a) Public Contracts. Every party to a public contract and every eligible bidder shall:
  - 1) Refrain from unlawful discrimination and discrimination based on citizenship status in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination;
  - 2) Comply with the procedures and requirements of the Department of Human Rights (DHR) regulations concerning equal employment opportunities and affirmative action;
  - 3) Provide such information, with respect to its employees and applicants for employment, and assistance as DHR may reasonably request;
  - 4) Have written sexual harassment policies that shall include, at a minimum, the following information:
    - A) the illegality of sexual harassment;
    - B) the definition of sexual harassment under State law;
    - C) a description of sexual harassment, utilizing examples;
    - D) the vendor's internal complaint process, including penalties;
    - E) the legal recourse, investigative and complaint process available through DHR and the Human Rights Commission;
    - F) directions on how to contact DHR and the Commission; and
    - G) protection against retaliation as provided by Section 6-101 of the Illinois Human Rights Act (IHRA) [775 ILCS 5]. A copy of the policies shall be provided to the Department of Human Rights upon request.
- b) Section 7-105A of the IHRA authorizes the Department of Human Rights to promulgate policies, rules and regulations to implement the provisions of the IHRA applicable to eligible bidders and public contractors. DHR has promulgated rules, 44 Ill. Adm. Code 750, that establish public contractor and eligible bidder duties, obligations, and reporting requirements. These rules require that certain employers register with DHR in order to be eligible for the award of certain public contracts (44 Ill. Adm. Code 750.Appendix A).

SUBPART L: CONTRACT PRICING

**Section 1600.2800 All Costs Included**

OFFICE OF THE LT. GOVERNOR  
NOTICE OF EMERGENCY RULES



## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

## EMERGENCY

The IFB or RFP and any resulting contract should define whether prices cover transportation, transit insurance, delivery, installation, taxes, and any other costs.

## SUBPART M: PREFERENCES

Section 1600.4505 Procurement Preferences  
EMERGENCY

The procurement preferences identified in Article 45 of the Code must be considered in developing procurement documents, conducting evaluations and drafting contracts.

Section 1600.4510 Resident Bidder Preference  
EMERGENCY

a) "Illinois resident vendor" as used in this Section means a person authorized to transact business in this State and having a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract was first advertised or announced, including a foreign corporation duly authorized to transact business in this State that has a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract is first advertised or announced.

b) In breaking a tie, an Illinois resident vendor shall be given the award.

c) In all procurements involving out-of-state vendors, the CPO shall consult a list of states with in-state preference that shall be maintained by CMS.

Section 1600.4530 Correctional Industries  
EMERGENCY

a) The CPO shall consult a listing, maintained by CMS, of supplies or services available from the Department of Corrections.

b) Procurement Officers are authorized to procure from Corrections without seeking competition or giving public notice.

Section 1600.4535 Sheltered Workshops for the Disabled  
EMERGENCY

a) Use of Sheltered Workshop  
The Procurement Officer may determine to contract with a sheltered workshop on the list maintained by CMS, and may do so without notice

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

or competition.

b) Conditions for Use The CPO shall, in consultation with the State Use Committee created by the Code (Section 45-35), determine which articles, materials, services, food stuffs and supplies that are produced or manufactured by persons with disabilities in State use sheltered workshops shall be given preference by purchasing agencies procuring those items. The CPO shall use procedures established by CMS for implementing this Section.

c) Sheltered Workshop List

The CPO shall use the list of all qualified sheltered workshops and the supplies and services each qualified sheltered workshop provides, which is maintained by CMS.

d) Pricing Approval

1) While notice and competition is not required prior to contracting with a sheltered workshop, prices must be reasonable. Whether a price is reasonable will be determined based upon current market prices, historical prices, prices received by other State agencies for similar supplies or services, the policy of the Code to promote procurements from sheltered workshops, and other such relevant factors.

2) The State Use Committee, established under Section 45-35 of the Code, must approve contracts for reasonableness of price if:

A) the supply or service would ordinarily be subject to competitive sealed bidding or competitive sealed proposals methods of source selection; or

B) the supply or service is bid and the sheltered workshop is selected even though not the lowest responsible bidder.

3) State Use Committee approval is not required if:

A) the contract does not exceed the bid limit set in Section 1600.2020 of this Part and no bidding was conducted; or

B) the contract is let to the sheltered workshop under a competitive procedure.

4) When Committee approval is required, it will be given or denied in an expeditious manner so as not to disrupt procurement activities. Consideration will be at regularly scheduled meetings or through special telephone meetings conducted between regular meetings.

Section 1600.4540 Small Business  
EMERGENCY

a) Set-Aside

The CPO may determine categories of supplies or service procurements that will be set aside for small business. The set-aside designation may be made for current and future procurements of a specific supply, service or construction, or for a class of like supplies, services or construction. A set-aside designation may last indefinitely or for a stated period of time.

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

## b) Small Business List

The CPO may use the list, maintained by CMS or other appropriate State agency, of responsible vendors that meet the criteria of small business. A business that fits the definition of small on the day of bid or proposal opening will be considered small for the duration of the contract.

## c) Required Use

If a Procurement Officer wishes to make a procurement covered by a set-aside designation, the solicitation must note responses are limited to those from responsible small businesses. Bids or proposals received from large businesses will be rejected as nonresponsive.

## d) Withdrawal of Set-Aside

If the Procurement Officer determines that acceptance of the best bid or proposal will result in the payment of an unreasonable price, the Procurement Officer shall reject all bids or proposals and withdraw the designation of small business set-aside for the procurement in question. When a small business set-aside is withdrawn, notification shall be published in the Illinois Procurement Bulletin with an explanation. After withdrawal of the small business set-aside, the procurement shall be conducted in accordance with the limitations of the Code and this Part.

## e) Criteria for Small Business

Unless the CPO provides a definition for a particular procurement that reflects industrial characteristics, a small business is one:

- 1) Independently owned and operated.
- 2) Not dominant in its field of operations. This means the business does not exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining dominance, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.
- 3) With annual sales for most recently ended fiscal year no greater than:
  - A) \$7,500,000 for wholesale business;
  - B) \$3,000,000 for construction business; or
  - C) \$1,500,000 for retail business.
- 4) With no more than 250 employees if a manufacturing business.
  - A) A manufacturing business shall calculate how many people it employs by determining its average full-time equivalent employment, based on the number of persons employed on a full-time, part-time, temporary or other basis, for its most recently ended fiscal year.
  - B) If a manufacturing business has been in existence for less than a full fiscal year, its average employment should be

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

calculated for the period through one month prior to the bid or proposal due date.

- 5) If both a wholesaler and a retailer, the combined wholesale and retail annual sales for its most recently completed fiscal year may not exceed \$9,000,000. The retail component may not exceed \$1,500,000 and the wholesale component may not exceed \$7,500,000.
- 6) When computing the size status of a vendor, the number of employees and annual sales and receipts, as applicable, of the vendor and all affiliates shall be included. Concerns are affiliates when either one directly or indirectly controls or has the power to control the other, or when a third party or parties controls or has the power to control both. In determining whether concerns are independently owned and operated and whether affiliation exists, consideration shall be given to all appropriate factors, including use of common facilities, common ownership and management and contractual arrangements. However, a franchise relationship shall not affect small business status if the franchise has the right to profit commensurate with ownership and bears the risk of loss or failure.
- f) Vendors desiring to submit bids or proposals or to otherwise contract for items set aside for small businesses shall submit information verifying that the vendor qualifies as a small business or rely on such procedures established by other State agencies. The CPO may establish procedures for verifying such information.

**Section 1600.4570 Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities**  
**EMERGENCY**

- a) Introduction  
The Business Enterprise Act for Minorities, Females, and Persons with Disabilities [30 ILCS 575] (Act) sets a goal (minimum 12%) for contracting with businesses owned or controlled by minorities, females, or persons with disabilities.
- b) Upon direction of the CPO, the OLG may establish set-asides and other such preferences for vendors certified under that Act.
- c) Certification  
Certification procedures are set forth in rules governing the Business Enterprise Act (44 Ill. Adm. Code 10).
- d) The CPO may refer to the list of businesses that have been certified and maintained by CMS.

SUBPART N: ETHICS

**Section 1600.5013 Conflicts of Interest**  
**EMERGENCY**

- a) This Section does not apply to those elected to local government,

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

including school districts, nor does it apply to those elected to Federal offices in this State. This Section does apply to those elected to an office of Illinois State government.

- b) An individual has a direct pecuniary interest in a contract when the individual is owed a payment or otherwise receives a direct financial benefit in conjunction with performance of a contract, including finders fees and commission payments.
- c) Distributable income means the income of a company after payment of all expenses, including employee salary and bonus, and retained earnings, which is distributed to those entitled to receive a share of such income.
- d) This Section does not apply to contracts with licensed professionals provided such contracts are competitively bid. For purposes of this Section, "bid" means procured pursuant to the competitive procedures identified in Subpart E of this Part.

#### Section 1600.5015 Negotiations for Future Employment EMERGENCY

- a) It is unlawful for any person employed in or on a continual contractual relationship with any of the offices or agencies of State government to participate in contract negotiations on behalf of that office or agency with any firm, partnership, association, or corporation with whom that person has a contract for future employment or is negotiating concerning possible future employment. [30 ILCS 500/50-15(a)]
- b) An individual who performs services pursuant to a contract and who meets the requirements of an "employee" as opposed to an independent contractor is in a "continued contractual relationship" from the effective date of the contract until such time as the contract is terminated.
- c) An individual who performs services pursuant to a contract and who meets the requirements of an "independent contractor" as opposed to an "employee" is in a "continual contracted relationship" if the contract term is indefinite, is automatically renewed, is renewable at the individual's option, is renewable unless the State must act to terminate, or has a definite term of at least three months.

#### Section 1600.5020 Exemptions EMERGENCY

If the Procurement Officer finds a conflict of interest under Section 50-13 of the Code with the vendor selected for award or contract negotiations, the Procurement Officer, if other than the CPO, shall forward to the CPO the name of the vendor and a description of the proposed contract and of the potential conflict, and shall state why an exemption should be granted. The CPO shall submit the files to the Board of Ethics for its determination and with the approval of the CPO, the Board of Ethics may exempt named individuals from the

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

prohibitions of Section 50-13 of the Code when, in its judgment, the public interest in having the individual in the service of the State outweighs the public policy evidenced in that Section. [30 ILCS 500/50-20]

#### Section 1600.5030 Revolving Door EMERGENCY

Effective January 15, 1999, the CPO shall identify in writing their designees whose job or position descriptions are at least 51% directly related to State procurement. They shall maintain that information for a period of at least two years following the end or revocation of the designation.

#### Section 1600.5035 Disclosure of Financial Interests and Potential Conflicts of Interest EMERGENCY

- a) Distributable or distributive income means the income of a company after expenses, including employee salaries and bonuses, and retained earnings, which is distributed to those entitled to receive a share of such income.
- b) Personal services shall be any contract for services subject to this Code, including, for example, professional and artistic services, repair services, cleaning and guard services.
- c) "Competitively bid" means a contract let pursuant to Section 20-10 of the Code.
- d) "Subject to federal 10K reporting" means subject to the reporting Section 13 or 15(d) of the Securities Exchange Act of 1934. "10K disclosure" means a report required under Section 13 or 15(d) of the Securities Exchange Act of 1934.
- e) Once a disclosure is made in relation to a particular contract, the disclosure need not be repeated if the contract is amended.
- f) 10K Disclosures
  - 1) Any vendor subject to federal 10K reporting requirements may submit its 10K to the State in satisfaction of the disclosure requirement of Section 50-35(b) of the Code provided the vendor also identifies the specific sections or parts in the 10K disclosure where the State may find information, if any, pertaining to those who have an ownership interest or an interest in the distributable income of the vendor or its parent, or other information that the vendor knows or reasonably should know identifies a potential conflict of interest with the State. If the financial interest or conflict of interest information requested by the State is not in the 10K, but is in a document referenced in the 10K, or in a document that may be submitted to the SEC in conjunction with or in lieu of the 10K, then that additional documentation shall be provided as well.
  - 2) 10K disclosures are available for public review. Any potential conflict of interest identified by the public and brought to the



## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

attention of the CPO or SPO shall be investigated.

- 3) In circumstances where a vendor may submit a 10K disclosure in lieu of the specific disclosure requirements of the Code and for purposes of the Procurement Officer's duty to consider any conflict or potential conflict of interest that may exist, but that is not subject to specific disclosure requirements of the Code and this Part, and that is not personally known by the Procurement Officer, the duty of the Procurement Officer "publicly known or reasonably available to the public" shall be satisfied by taking into consideration information identified by the vendor in the 10K disclosure and any information disclosed pursuant to public review of the 10K disclosure.

## SUBPART O: COMPLAINTS, PROTESTS AND REMEDIES

## Section 1600.5510 Complaints Against Vendors

## EMERGENCY

- a) The purpose of this Section is to document performance of vendors.
- b) Whenever a vendor fails to meet contract requirements, including but not limited to failure to deliver on time or meet specifications, the OLG shall take appropriate action to initiate a complaint to the vendor.
- c) For relatively minor infractions, the OLG may initiate contact by telephone or in person. If not resolved by this action, a written complaint shall be made.
- d) For other infractions, the OLG shall send a written complaint to the vendor detailing the problem.
- e) A copy of all written complaints and the resolution or status shall be filed with CMS.

## Section 1600.5520 Suspension

## EMERGENCY

- a) Application  
This Section applies to all debarments or suspensions of vendors from consideration for award of contracts under this Part or the Code.
- b) The OLG may recommend to CMS that a vendor be suspended from doing business with the State, with one or more agencies, or for specific types of supplies or services. A suspension may be issued by CMS upon a showing the vendor violated the Code or this Part, or failed to conform to specifications or terms of delivery.
- c) When CMS finds cause exists for suspension, a notice of suspension, including a copy of such determination, shall be sent to the suspended vendor. Bids or proposals will not be solicited from the suspended vendor, and, if received, will not be considered during the period of suspension.
- d) A vendor may be suspended for a period of time commensurate with the

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

seriousness of the offense, but for no more than five years. The suspension will be effective seven calendar days after receipt of notice unless an objection is filed. If an objection is filed, suspension would not become effective until the evaluation of the objection is completed.

- e) CMS may debar a vendor. Debarment is the permanent suspension of a vendor from doing business with the State. A debarment may only take place in those instances involving bribery or attempted bribery of a State of Illinois officer or employee, or as otherwise allowed or required by law. Bids or proposals received from the debarred vendor will not be considered.

- f) CMS shall maintain a master list of all suspensions and debarments. The master list will retain information concerning suspensions and debarments as public records. Such records will be maintained for a period of at least three years following the end of the suspension or debarment. Such public information may be considered in determining responsibility.

## Section 1600.5530 Resolution of Contract Controversies

## EMERGENCY

- a) Authority to Resolve Controversies  
The Procurement Officer shall have authority to resolve controversies.
  - b) Authority of the OLG  
The OLG has the authority to accept delivery of supplies or services in accordance with contract requirements as satisfactory adjustment of a complaint.
    - c) Substitution of Terms/Price Reduction  
If the vendor proposes to make an adjustment by:
      - 1) substituting an alternative specification, or
      - 2) reducing the contract price by a certain amount to compensate for some failure to provide full performance under the contract, such proposal must be referred to and approved by the Procurement Officer.

- d) Cancellation for Breach of Contract

In any of the following cases the Procurement Officer shall have the right to terminate or rescind any contract entered into under this Part:

- 1) In the event the successful bidder fails to furnish a satisfactory performance bond within the time specified.
- 2) In the event the vendor fails to make delivery at the place or within the time specified in the contract or as ordered by the OLG.
- 3) In the event any supplies or services provided under the contract are rejected (for not meeting specification, not conforming to sample, or not being in good condition when delivered) and are not promptly replaced by the vendor. If there are repeated rejections of the vendor's supplies or services, this shall be

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

grounds for termination or rescission, even though the vendor offers to replace the supplies or services promptly.

- 4) In the event the vendor is guilty of misrepresentation (for example, misbranding of food or drugs) in connection with another contract for the sale of supplies or services to the OLG such that the vendor cannot reasonably be depended upon to fulfill his obligations as a responsible vendor under any of his contracts with the OLG.

- 5) In the event the vendor should be adjudged bankrupt; enter into receivership or make a general assignment for the benefit of creditors due to insolvency; disregard laws, rules, or instructions of the Procurement Officer; or act in violation of any provision of the contract; or if the contract conflicts with any statutory or constitutional provision of the State of Illinois or of the United States.

- 6) In the event of any other breach of contract or other unlawful act by the vendor.

- e) Cancellation for Fraud, Collusion, Illegality, Etc.

The OLG may cancel any contract it established if there is sufficient evidence to show that:

- 1) The contract was obtained by fraud, collusion, conspiracy, or other unlawful means; or
- 2) The contract conflicts with any statutory provision of the State of Illinois or of the United States.

- f) Withholding Money to Compensate State for Damages

If a contract is terminated or rescinded under this Section, the OLG may deduct from whatever is owed the vendor on that or any other contract an amount sufficient to compensate the State of Illinois for any damages suffered by it because of the vendor's breach of contract or other unlawful act on the vendor's part on which the cancellation is based.

- g) Damages

The damages for which the OLG may be compensated as provided in this Section or by a suit on the vendor's performance bond or by other legal remedy shall include, but are not limited to, the following:

- 1) the additional cost of supplies or services bought elsewhere;
- 2) cost of repeating the procurement procedure;
- 3) any expenses incurred because of delay in receipt of supplies or services; and
- 4) any other damages caused by the vendor's breach of contract or unlawful act.

**Section 1600.5540 Violation of Law or Rule****EMERGENCY**

- a) Determination that Solicitation or Award Violates Law  
If the Purchasing Officer finds that the solicitation or proposed award is in violation of statute or rule, the Purchasing Officer may

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

cancel the solicitation or proposed award, or make modifications to correct the violation, if such correction may be legally accomplished.

- b) Determination that Contract Violates the Code or this Part  
Contracts based on awards or solicitations that were in violation of law shall be terminated at no cost to the OLG unless statute or rule allows the OLG to modify, ratify or take other corrective action.

- c) Effect of Declaring a Contract Null and Void

In all cases in which a contract is voided, the OLG shall endeavor to return those supplies delivered under the contract that have not been used or distributed. No further payments shall be made under the contract.

**Section 1600.5550 Protests****EMERGENCY**

- a) Protest Resolution by the Procurement Officer

An actual or prospective bidder, offeror, or vendor that may be aggrieved in connection with a procurement may file a protest on any phase of solicitation or award, including but not limited to specifications preparation, bid solicitation, or award.

- b) Complaint to Procurement Officer

Complainants should seek resolution of their complaints initially with the office that issued the solicitation. Such complaints may be made verbally or in writing.

- c) Filing of Protest

1) Protests shall be made in writing to the Procurement Officer, if applicable, and shall be filed within 14 days after the protester knows or should have known of the facts giving rise to the protest. A protest is considered filed when physically received by the Procurement Officer. Protests filed after the 14 day period shall not be considered. In regard to a protest regarding specifications, the protest must be received within 14 days after the date the solicitation was issued, and in any event must be received by the OLG at the designated address before the date for opening of bids or proposals.

- 2) To expedite handling of protests, the envelope should be labeled "protest". The written protest shall include as a minimum the following:

- A) the name and address of the protester;
- B) appropriate identification of the procurement, and, if a contract has been awarded, its number;
- C) a statement of reasons for the protest; and
- D) supporting exhibits, evidence, or documents to substantiate any claims unless not available within the filing time, in which case the expected availability date shall be indicated.

- d) Requested Information; Time for Filing

Any additional information requested by the OLG shall be submitted

OFFICE OF THE LT. GOVERNOR  
NOTICE OF EMERGENCY RULES

within the time periods established by the requesting source in order to expedite consideration of the protest. Failure of the protesting party to comply expeditiously with a request for information by the Procurement Officer may result in resolution of the protest without consideration of that information.

- e) Stay of Procurements During Protest  
When a protest has been timely filed and before an award has been made, the Procurement Officer shall make no award of the contract until the protest has been resolved. If timely received but after award, the award shall be revoked without penalty and no award made until the protest has been resolved. In either case the Procurement Officer may make the award or reinstate the award upon a determination that the needs of the OLG require an immediate award and performance under the contract.

- f) Decision by the Procurement Officer  
A decision on a protest shall be made by the Procurement Officer as expeditiously as possible after receiving all relevant, requested information. If a protest is sustained, the available remedies include, but are not limited to, reversal of award and cancellation or revision of the solicitation.

- g) Effect of Judicial or Administrative Proceedings  
If an action concerning the protest has commenced in court, the Procurement Officer shall not act on the protest, but shall refer the protest to the Attorney General unless otherwise directed by the Attorney General.

SUBPART P: GOVERNMENTAL JOINT PURCHASING

Section 1600.6500 General  
EMERGENCY

In an effort to make the procurement process more efficient, OLG and other governmental units (including not-for-profit entities authorized by law to participate in joint purchasing) may agree to utilize each others' procurement contracts. This authority is governed by this Subpart and the Governmental Joint Purchasing Act [30 ILCS 525]. Only the CPO may enter into contracts under the Act when the OLG is a party to the contract.

Section 1600.6510 No Agency Relationship  
EMERGENCY

In any joint procurement situation, the other governmental unit must issue its own purchase order, accept its own deliveries and make its own payments. The State of Illinois shall have no obligation to the vendor for payment of orders placed by other governmental units.

Section 1600.6520 Obligations of Participating Governmental Units  
EMERGENCY

OFFICE OF THE LT. GOVERNOR  
NOTICE OF EMERGENCY RULES

If governmental units determine to use contracts established by the OLG or by CMS on behalf of the OLG, they must:

- a) provide to the CPO a copy of the ordinance or resolution passed by the governing body of the governmental unit giving authority to make purchases from contracts issued by the State of Illinois;
- b) make all purchases under the State contracts for public use only and specifically prohibit personal use or consumption by any individual, public employee or official;
- c) make payment to the vendor within 30 days after receipt of supplies or services;
- d) place orders with the supplier directly using their own purchase order forms. A copy of the purchase order must also be sent to the CPO. This copy will be used for statistical purposes and will serve as notice that the governmental unit has complied with the bid action;
- e) inspect all items immediately for compliance with the contract specifications and report to the CPO any failure of suppliers to comply with contract requirements; and
- f) attempt to resolve disputes with the vendor before involving the CPO.

SUBPART Q: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section 1600.7000 Severability  
EMERGENCY

If any provision of this Part or any application thereof is held invalid, such invalidity shall not affect other provisions or applications of this Part that can be given effect without such invalid provision or application.

Section 1600.7010 Government Furnished Property  
EMERGENCY

If the OLG provides any property to the vendor in furtherance of the contract, such property shall remain the property of the State but may be consumed by the vendor if necessary to complete the contract. Vendor will issue a receipt for the property and will be responsible for its safekeeping and for return of unused property to the State.

Section 1600.7015 Inspections  
EMERGENCY

- a) Inspection of Plant or Site  
The OLG may enter, or authorize CMS to enter, a vendor's or subcontractor's plant or place of business to:
  - 1) inspect supplies or services for acceptance by the State pursuant to the terms of a contract;
  - 2) audit the books and records of any vendor or subcontractor pursuant to Section 1600.7020 (Records and Audits) of this Part;
  - 3) investigate an action to debar or suspend a person from



## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

consideration for award of contracts pursuant to the Code; determine whether the standards of responsibility have been met or are capable of being met;

5) determine if the contract is being performed in accordance with its terms; and

6) accomplish any other purpose permitted by law.

## b) Inspection and Testing of Supplies and Services

1) Solicitation and Contractual Provisions. Contracts of the OLG may provide for the inspection of supplies and services at the vendor's or subcontractor's facility and the performance tests to determine whether the supplies or services conform to solicitation requirements, or, after award, to contract requirements, and are therefore acceptable. Such inspections and tests shall be conducted in accordance with the terms of the solicitation and contract and may be conducted by CMS on behalf of the OLG.

2) Procedures for Trial Use and Testing. The Procurement Officers may establish operational procedures, or may rely on such procedures established by CMS, governing the testing and trial use of equipment, material, and other supplies by the OLG, and the application of resulting information and data to specifications or procurements.

## c) Conduct of Inspections

1) Inspectors. Inspections or tests shall be performed so as not to unduly delay the work of the vendor or subcontractor. No inspector other than the Procurement Officer may change any provision of the specifications or the contract without written authorization of the Procurement Officer. The presence or absence of an inspector shall not relieve the vendor or subcontractor from any requirements of the contract.

2) Location. When an inspection is made in the plant or place of business of a vendor or subcontractor, such vendor or subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.

3) Time. Inspection or testing of supplies and services performed at the plant or place of business of any vendor or subcontractor shall be performed at reasonable times.

## d) Inspection of Construction Projects

On-site inspection of construction shall be performed in accordance with the terms of the contract.

## Section 1600.7020 Records and Audits

## EMERGENCY

a) Retention of Books and Records  
Books and records that relate to performance of a contract, including subcontracts, and that support amounts charged to the OLG, shall be

## OFFICE OF THE LT. GOVERNOR

## NOTICE OF EMERGENCY RULES

maintained:

- 1) by a vendor, for three years from the date of final payment under the prime contract;
- 2) by a subcontractor, for at least three years from the date of final payment under the subcontract; and
- 3) by a vendor and subcontractor for such longer period of time as is necessary to complete ongoing or announced audits.

## b) Contract Audit

- 1) Types of Contracts Audited. The type of contract under which books and records should be audited is that in which price is based on costs or is subject to adjustment based on costs, or that in which auditing would be appropriate to assure satisfactory performance, such as a time and materials contract.
- 2) Situations in which an audit may be warranted include but are not limited to when a question arises in connection with:
  - A) the financial condition, integrity, and reliability of the vendor or subcontractor;
  - B) any prior audit experience;
  - C) the adequacy of the vendor's or subcontractor's accounting system;
  - D) the number or nature of invoices or reimbursement vouchers submitted by the vendor or subcontractor for payment;
  - E) the use of federal assistance funds;
  - F) the fluctuation of market prices affecting the contract; or
  - G) any other situation in which the Procurement Officer finds that such an audit is necessary for the protection of the State's best interest.

## Section 1600.7025 Written Determinations

## EMERGENCY

## a) Preparation and Execution

When the Code or this part requires a written determination, the officer required to prepare the determination may delegate its preparation, but the responsibility for and the execution of the determination shall not be delegated.

## b) Content

Each written determination shall set out sufficient facts, circumstances, and reasoning as will substantiate the specific determination that is made.

## c) Obtaining Supporting Information

While an officer is responsible for the execution of the written determination, other State personnel, particularly technical personnel and appropriate personnel in the purchasing agency, are responsible for furnishing to the cognizant official, in an accurate and adequate fashion, the information pertinent to the determination. When requested, such information shall be furnished in writing to the cognizant official who shall have the authority to decide the final

OFFICE OF BANKS AND REAL ESTATE  
NOTICE OF EMERGENCY RULES

1) Heading of the Part: Licensing and Regulation of Pawnbrokers

2) Code Citation: 38 Ill. Adm. Code 360

| <u>Section Number</u> | <u>Emergency Action</u> |
|-----------------------|-------------------------|
| 360.10                | New Section             |
| 360.100               | New Section             |
| 360.110               | New Section             |
| 360.120               | New Section             |
| 360.130               | New Section             |
| 360.140               | New Section             |
| 360.150               | New Section             |
| 360.160               | New Section             |
| 360.170               | New Section             |
| 360.200               | New Section             |
| 360.210               | New Section             |
| 360.300               | New Section             |
| 360.310               | New Section             |
| 360.400               | New Section             |
| 360.410               | New Section             |
| 360.420               | New Section             |
| 360.500               | New Section             |
| 360.510               | New Section             |
| 360.520               | New Section             |
| 360.600               | New Section             |
| 360.610               | New Section             |
| 360.620               | New Section             |
| 360.630               | New Section             |
| 360.640               | New Section             |

4) Statutory Authority: Implementing and authorized by the Pawnbroker Regulation Act [205 ILCS 510]

5) Effective Date of Amendment: July 1, 1998

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it expires: End of 150-day period.

7) Date Filed in Agency's Principal Office: July 1, 1998.

8) Reason for Emergency: Pursuant to Public Act 90-477, effective July 1, 1998 the Office of Banks and Real Estate will begin administering a new licensing program for Illinois pawnbrokers. Public Act 90-602, also effective July 1, 1998, makes significant changes to the new licensing program, but was not signed by the Governor until June 26, 1998. The proposed emergency rules are necessary for the administration of the new licensing program until permanent rules can be adopted through regular

OFFICE OF THE LT. GOVERNOR  
NOTICE OF EMERGENCY RULES

form and content of the determination and to resolve any questions or conflicts arising with respect to the determination.  
d) Forms The CPO is authorized to prescribe methods and operational procedures to be used in preparing written determinations.

e) Retention Each written determination shall be filed in the solicitation or contract file to which it applies, shall be retained as part of such file for so long as the file is required to be maintained, and, except as otherwise provided by statute or rule, shall be open to public inspection.

**Section 1600.7030 No Waiver of Sovereign Immunity**  
**EMERGENCY**

Nothing in this Part shall be deemed to be a waiver of sovereign immunity.

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

rulemaking.

- 9) A complete description of the subjects and issues involved: Effective July 1, 1998, the Office of Banks and Real Estate will begin licensing pawnbrokers for the first time, pursuant to the Pawnbroker Regulation Act. The emergency rules set forth definitions, license requirements, hearing procedures, and other administrative rules needed to implement the new program until permanent rules can be adopted through the regular rulemaking process.

- 10) Are there any proposed amendments pending to this Part? No

- 11) Statement of Statewide Policy Objectives: This rule will not affect local government.

- 12) Information and questions regarding this amendment shall be directed to:

John Arthur  
Office of Banks and Real Estate  
500 East Monroe, Suite 900  
Springfield, Illinois 62701  
(217) 782-3000

The full text of the Emergency Rules begins on the next page:

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

TITLE 38: FINANCIAL INSTITUTIONS  
CHAPTER II: OFFICE OF BANKS AND REAL ESTATE

## PART 360

## LICENSING AND REGULATION OF PAWNBROKERS

## SUBPART A: DEFINITIONS

Section  
360.10 Definitions  
EMERGENCY

## SUBPART B: PAWNSHOP LICENSE

Section  
360.100 Purpose  
EMERGENCY  
360.110 Application for License  
EMERGENCY  
360.120 Processing of Application  
EMERGENCY  
360.130 Standards for Licensure  
EMERGENCY  
360.140 Initial Applications for License from Persons Operating or  
EMERGENCY Who Have Operated a Pawnshop for the Two Years Preceding July 1, 1998  
360.150 Change in Control or Form of Ownership, Change in Location,  
EMERGENCY Change in Name of Pawnshop, Voluntary Surrender of License; Fees  
Expiration and Renewal of Licenses; Fees  
360.160 Expiration and Renewal of Licensees; Fees  
EMERGENCY  
360.170 Display of License  
EMERGENCY

## SUBPART C: FORMS

Section  
360.200 Purpose and Scope  
EMERGENCY  
360.210 Forms  
EMERGENCY

## SUBPART D: UNIFORM RULES FOR HEARINGS BEFORE THE COMMISSIONER

Section  
360.300 Scope  
EMERGENCY  
360.310 Procedure for Hearings before the Commissioner



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

## EMERGENCY

## SUBPART E: RULES AND PROCEDURES APPLICABLE TO PROCEEDINGS RELATING TO ORDERS

Section 360.400 Scope  
EMERGENCY  
360.410 Grounds for an Order  
EMERGENCY  
360.420 Effective Date of Order; Service  
EMERGENCY

## SUBPART F: RULES AND PROCEDURES APPLICABLE TO PROCEEDINGS RELATING TO ASSESSMENT AND COLLECTION OF CIVIL MONEY PENALTIES

Section 360.500 Scope  
EMERGENCY  
360.510 Assessment of Penalties  
EMERGENCY  
360.520 Effective Date of, Payment under, and Service of an Order to Pay  
EMERGENCY

## SUBPART G: RULES AND PROCEDURES APPLICABLE TO PROCEEDINGS FOR REVOCATION OR SUSPENSION OF LICENSE

Section 360.600 Scope  
EMERGENCY  
360.610 Grounds for Suspension of License  
EMERGENCY  
360.620 Grounds for Revocation of License  
EMERGENCY  
360.630 Notice to Customers  
EMERGENCY  
360.640 Effective Date of Revocation or Suspension; Service  
EMERGENCY

AUTHORITY: Implementing and authorized by the Pawnbroker Regulation Act [205 ILCS 510].

SOURCE: Emergency Rule adopted at 22 Ill. Reg. **12963**, effective July 1, 1998, for a maximum of 150 days.

## SUBPART A: DEFINITIONS

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

Section 360.10 Definitions  
EMERGENCY

For purposes of this Part:

"Applicant" means the individual or business entity applying to the Commissioner for a license.

"Commissioner" means the Commissioner of Banks and Real Estate, or a person authorized by the Commissioner to act in the Commissioner's stead.

"License" means the authority to operate a pawnshop as issued by the Commissioner.

"Licensee" means the individual or business entity who has been issued a license by the Commissioner.

"Pawnbroker" shall have the same meaning ascribed to that term in Section 1 of the Pawnbroker Regulation Act [205 ILCS 510/1].

"Pledger" means any person who has pledged tangible personal property as collateral for a pawn loan.

"Principal party" means any officer or director of a pawnshop or a corporation that owns or seeks to own a pawnshop; any manager of a limited liability company that is a pawnshop or that owns or seeks to own a pawnshop; any shareholder or member owning 10% or more of the outstanding stock or membership interests of a pawnshop or a business entity that owns or seeks to own a pawnshop; or any partner, whether general or limited, of a partnership that is a pawnshop or that owns or seeks to own a pawnshop.

"Respondent" means the person named in an administrative decision.

## SUBPART B: PAWNSHOP LICENSE

Section 360.100 Purpose  
EMERGENCY

This Subpart sets forth:

- where required applications and notices must be filed;
- the contents of the application package;
- the locations where the application package may be obtained;
- the procedures to be followed by both the Commissioner and the applicant during the processing of an application or notice; and
- the type of fee that will be levied for each type of application or

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

notice. A copy of the fee schedule established by the Commissioner may be obtained upon written request.

**Section 360.110 Application for License****EMERGENCY**

- a) Requirement, where to file. Section 0.05(c) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(c)] provides that it is unlawful to operate a pawnshop without a license issued by the Commissioner. All requests for an application package must be directed to the Office of Banks and Real Estate, Bureau of Banks and Trust Companies, 500 East Monroe, Springfield, Illinois 62701-1532 (Telephone (217) 785-2900) or to the Office of Banks and Real Estate, Bureau of Banks and Trust Companies, 310 South Michigan Avenue, Suite 2130, Chicago, Illinois 60604-4278 (Telephone (312) 793-3000) by written correspondence or telephone. A separate license is required for each pawnshop location.
- b) Instructions, contents. An application for a license must be submitted on the form prescribed in Section 360.210 of this Part, in accordance with the Commissioner's instructions. An application for a license shall be made under oath and state the full name and address of the applicant together with any other relevant information the Commissioner shall require. The application shall also include, but not be limited to, the following requirements:
  - 1) Disclosure of Principal Parties. The full name and place of residence of all principal parties must be provided.
  - 2) Background Investigation. The Commissioner may require that each applicant and principal party. Each applicant and principal party shall complete an Authorization For Release of Personal Information form that authorizes the Commissioner to conduct a criminal history record investigation and a review of retail credit agencies' records (including credit reports and ratings). At the request of the Commissioner, each applicant and principal party shall submit to, and have performed, a criminal history record investigation in the form and manner required by the Department of State Police and the Federal Bureau of Investigation. The Commissioner need not cause additional criminal history record investigations to be conducted on an applicant or principal party for whom the Commissioner or any other government agency has caused such investigations to have been conducted previously unless such additional investigations are otherwise required by law or unless the Commissioner deems such additional investigations to be necessary for the purposes of carrying out the Commissioner's statutory powers and responsibilities.
  - 3) Fees. The applicant must submit the Application Fee of \$600 with the completed application. Unless otherwise permitted by the Commissioner, the payment of all fees shall be made by certified

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

check, money order, an electronic transfer of funds, or an automatic debit of an account. Certified checks or money orders shall be made payable to the Office of Banks and Real Estate.

**Section 360.120 Processing of Application****EMERGENCY**

- a) Initial review. The Commissioner shall evaluate all applications within 30 business days after receipt and acknowledge completeness, identify deficiencies, and request additional information, if necessary. A completed application is one that conforms to the instructions provided in the application package and for which all fees have been paid. The Commissioner may reject an incomplete application.
- b) Failure to complete application. If a complete application has not been filed with the Commissioner within 30 business days after the Commissioner's request for additional information, the application shall be denied and the applicable fee shall be forfeited, unless a further extension of time has been granted by the Commissioner.
- c) Consideration of completed application. Upon receipt of a completed application and all required fees, a determination will be made by the Commissioner within 30 business days to approve or deny the application request, unless the Commissioner determines additional time is necessary. A written notice of the Commissioner's decision will be mailed to the applicant. The written notice for all denied applications will also include the reason(s) for denial. The applicable fee for all denied applications will not be refunded to the applicant.
- d) Petition for reconsideration. An applicant has the right to petition the Commissioner for reconsideration within 30 business days after receipt of the written notice of license denial. The petition must be in writing and should address the reason(s) for denial as cited by the Commissioner, specify reasons why the Commissioner should reconsider the decision, and provide relevant information that supports the reasons set forth above. The Commissioner shall respond to all petitions within 30 business days after receipt, unless the Commissioner determines additional time is necessary.

**Section 360.130 Standards for Licensure****EMERGENCY**

Unless otherwise authorized by the Commissioner, in order to be eligible for a license to operate a pawnshop, each applicant and principal party must:

- a) if an individual, be eighteen years of age, or older;
- b) not have been convicted of a felony or of any criminal offense relating to dishonesty or breach of trust in connection with the operations of a pawnshop;
- c) possess the character and general fitness necessary to warrant belief

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

that the business will be operated in a lawful and fair manner.

In determining whether to grant a license, the Commissioner shall consider the nature of the offense, the amount of time since the conviction, and any other mitigating factors the Commissioner may deem appropriate with regards to an applicant or principal party who has been convicted of a felony or any criminal offense relating to dishonesty or breach of trust in connection with the operations of a pawnshop.

**Section 360.140 Initial Applications for License from Persons Operating or Who Have Operated a Pawnshop for the Two Years Preceding July 1, 1998**  
**EMERGENCY**

Unless otherwise authorized by the Commissioner, for persons who have operated a pawnshop at any time between July 1, 1996 through June 30, 1998, in order to be eligible for a license to operate a pawnshop, each applicant and principal party must:

- a) not have been convicted of a felony or of any criminal offense relating to dishonesty or breach of trust in connection with the operations of a pawnshop;
- b) provide the Commissioner with satisfactory evidence (e.g., a copy of a license issued from a municipality or copy of pages from a standard record book) that business activities were being conducted within the time period stated above.

In determining whether to grant a license, the Commissioner shall consider the nature of the offense, the amount of time since the conviction, and any other mitigating factors the Commissioner may deem appropriate with regards to an applicant or principal party who has been convicted of a felony or any criminal offense relating to dishonesty or breach of trust in connection with the operations of a pawnshop.

**Section 360.150 Change in Control or Form of Ownership, Change in Location, Change in Name of Pawnshop, Voluntary Surrender of License; Fees**  
**EMERGENCY**

- a) Change in Control or Form of Ownership. An application must be filed, by the acquiring party, not less than 30 days prior to the anticipated change in control or change in the form of ownership of a pawnshop. As used in this Section, "control" means a change involving the sale, assignment or transfer of a pawnshop; the addition or elimination of any general or limited partner; or a 10 percent or more change in the ownership of the outstanding stock of a corporation that owns a pawnshop. A change in the form of ownership is considered to be a change from a sole proprietorship to a partnership, or vice versa; a change from a sole proprietorship to a corporation, or vice versa; or a change from a partnership to a corporation, or vice versa. The application must be submitted on the form prescribed in Section 360.210 of this Part, in accordance with the Commissioner's instructions. The payment of the applicable change in Control or Form

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

of Ownership Fee must accompany the application. No change in control or form of ownership shall occur until approved by the Commissioner. The Commissioner may prohibit a change in control or form of ownership from occurring if the licensee does not meet the license standards set forth in Section 360.130 of this Part. The processing of the application shall be conducted in the same manner as provided in Section 360.120 of this Part. The Change of Control or Form of Ownership Fee is \$300.

- b) Gift, Bequest, or Inheritance. Any person who, by gift, bequest, or inheritance, obtains ownership rights to an existing pawnshop or ownership rights in a company that controls the pawnshop such that ownership rights would constitute control of the pawnshop or company, may obtain title and ownership rights, but may not exercise management or control of the business and affairs of the pawnshop or vote so as to exercise management or control unless and until the Commissioner approves an application for the change of control as provided in this Section.

- c) Change in Location. An application to change the location of a pawnshop must be filed not less than 45 days prior to the anticipated date of relocation. The application must be submitted on the form prescribed in Section 360.210 of this Part, in accordance with the Commissioner's instructions, and the processing of the application shall be conducted in the same manner as provided in Section 360.120 of this Part. The payment of the applicable Change in Location Fee must accompany the application. At a minimum, the application shall include: the present name and address of the licensed pawnshop, the address and phone number of the proposed new location, the anticipated date of relocation, a list of the addresses of all pledgers with open pawn loans, and a sample copy of the written notice that shall be provided to the pledgers of open pawn loans. No relocation of a pawnshop may occur until approved by the Commissioner. The Commissioner may prohibit a relocation if it adversely affects the ability of pledgers to redeem pledged goods due to the distance between the locations. Upon approval of a change in location by the Commissioner, the licensee shall provide notification to all pledgers with open pawn loans by signs and written notice. The written notice shall be mailed to all pledgers with open pawn loans of record, at their last known mailing address, not less than 15 days prior to the anticipated date of relocation. The written notice must include the name of the pawnshop as well as identify both the old and the new locations, the telephone number of the new location, and the anticipated date of relocation. At a minimum, two signs, of reasonable size and visibility, shall be posted on the outside of the pawnshop for 15 business days prior to the relocation. The signs shall include the information provided in substantially the following form:

NOTICE OF CHANGE IN LOCATION (centered, in caps and bold)



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

(DATE)

(Name of Pawnshop) WILL BE MOVING TO (new address)  
THE TELEPHONE NUMBER AT THE NEW LOCATION IS (telephone number) THE  
ANTICIPATED DATE OF RELOCATION IS (date of relocation)

The Commissioner may waive the notification to pledgers by mail if a determination has been made that no pledgers will be adversely affected by the relocation. Upon receipt of the completed form, payment of the applicable fee, and the Commissioner's approval, a new license shall be issued to the licensee. The licensee must surrender its former license to the Commissioner not less than 10 business days after the relocation has occurred, unless an exemption has been granted by the Commissioner. The Change of Location Fee is \$50.

d) Change in Name of Pawnshop. Prior to the change in the name of a pawnshop, the licensee shall provide written notice to the Commissioner, not less than 30 days prior to the anticipated change, and pay the applicable fee, as established by the Commissioner. Upon receipt of the written notice and applicable fee, the Commissioner shall issue a new license. At such time, the licensee must surrender its former license to the Commissioner. The Change in Name Fee is \$50.

e) Voluntary Surrender of License. Prior to the voluntary surrender of a license, the licensee shall provide not less than 60 days written notice to the Commissioner. The licensee shall also provide all pledgers with open pawn loans, at their last known mailing address, with 60 days written notice and shall publish a notice in two consecutive issues of a local newspaper of general circulation. At a minimum, the notice shall contain: the name and address of the pawnshop, the telephone number of the pawnshop, and the anticipated date on which business operations will cease. Prior to the cancellation of any license, the licensee shall certify to the Commissioner, in the manner prescribed by the Commissioner, that the pawnshop has no open pawn loans and that no further pawn loans shall be made. Upon receiving the certification from the licensee, the Commissioner shall cancel the license. At such time, the license shall be surrendered to the Commissioner. Ceasing business shall not impair or affect the obligation of either the pawnbroker or the pledger to fulfill the terms of any preexisting contract between them.

### Section 360.160 Expiration and Renewal of Licenses; Fees EMERGENCY

- a) License Expiration. Every license shall expire on June 30 of each year. The holder of a license may request to renew such license by filing an application with the Commissioner.
- b) License Renewal. All applications for license renewal for the

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

succeeding license period must be mailed to the Commissioner and be postmarked no later than May 1st of each year. An application package and related instructions will be mailed to all licensees prior to April 1st of each year at the address listed on their most recent application. All applications must be submitted on the form prescribed in Section 360.210 of this Part, in accordance with the Commissioner's instructions. The payment of the applicable Renewal Fee must accompany the application. In addition to the applicable Renewal Fee, a Late Filing Fee of \$50 per day shall be assessed for all applications postmarked after May 1st of each year, unless an exception has been granted by the Commissioner. All applications for license renewal will be held to the standards set forth in Section 360.130 of this Part. The application process will be administered according to the rules set forth in Section 360.120 of this Part. The Renewal Fee will not be prorated.

### Section 360.170 Display of License EMERGENCY

The license must be conspicuously displayed for public view at the place of business provided on the license.

## SUBPART C: FORMS

### Section 360.200 Purpose and Scope EMERGENCY

This Subpart sets forth the forms required to be filed by statute or rule for reports, applications, and other requests. These forms must be completed in accordance with the Commissioner's instructions. The forms and instructions can be obtained from the Office of Banks and Real Estate.

### Section 360.210 Forms EMERGENCY

- a) PAWNSHOP DISCLOSURE OF BUSINESS ACTIVITIES REPORT (Disclosure Report). This form is an annual report that shall be completed, according to the Commissioner's instructions, by each pawnshop to disclose such information, for the preceding calendar year, as required by the Commissioner pursuant to Section 7.5 of the Pawnbroker Regulation Act [205 ILCS 510/7.5]. The Disclosure Report must be filed by the Commissioner no later than 30 calendar days following the end of each calendar year.
- b) APPLICATION FOR LICENSE UNDER THE PAWNBROKER REGULATION ACT. This form shall be completed, according to the Commissioner's instructions, in order to apply for a license or renewal of license as required in Section 0.05(c) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(c)] and Section 360.110 and Section 360.160 of this Part.

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

- c) APPLICATION FOR A CHANGE IN CONTROL OR A CHANGE IN THE FORM OF OWNERSHIP OF AN ILLINOIS PAWNSHOP. This form shall be completed, according to the Commissioner's instructions, in order to apply for the approval of a change in control or a change in the form of ownership of a pawnshop as required in Section 360.150 of this Part.
- d) APPLICATION TO CHANGE THE LOCATION OF AN ILLINOIS PAWNSHOP. This form shall be completed, according to the Commissioner's instructions, in order to apply for a change in the location of a pawnshop as required in Section 360.150 of this Part.

## SUBPART D: UNIFORM RULES FOR HEARINGS BEFORE THE COMMISSIONER

**Section 360.300 Scope**  
**EMERGENCY**

This Subpart prescribes rules of practice and procedure applicable to hearings as a result of the following administrative decisions made by the Commissioner:

- a) orders under Section 0.05(a)(7) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(7)];
- b) assessment of civil money penalties under Section 0.05(a)(6) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(6)];
- c) suspension of license under Section 0.05(a)(7) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(7)];
- d) revocation of license under Section 0.05(a)(10) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(10)]; and
- e) denial of an application under Section 360.120 of this Part.

**Section 360.310 Procedure for Hearings before the Commissioner**  
**EMERGENCY**

If the respondent has specific grounds for believing the evidence upon which an administrative decision is based is not factual, then the respondent may request a hearing before the Commissioner. The procedure for hearings before the Commissioner will be conducted according to Part 392 of the Office of Banks and Real Estate rules entitled "Hearings Before the Office of Banks of Real Estate" (38 Ill. Adm. Code 392).

**SUBPART E: RULES AND PROCEDURES APPLICABLE TO PROCEEDINGS RELATING TO ORDERS**
**Section 360.400 Scope**  
**EMERGENCY**

The rules and procedures in this Subpart shall apply to proceedings in connection with an order issued by the Commissioner pursuant to Section 0.05(a)(7) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(7)]. The Commissioner may issue an order to a licensee, principal party, employee, agent, or other entity doing business without the required license.

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

**Section 360.410 Grounds for an Order**  
**EMERGENCY**

An order may be issued when, in the opinion of the Commissioner, the licensee, principal party, employee, agent, or any other entity doing business without the required license is violating, has violated, or is about to violate, any law, rule, or order relating to a pawnshop or is engaged, has engaged, or is about to engage in any unethical or fraudulent activity.

**Section 360.420 Effective Date of Order; Service**  
**EMERGENCY**

An order issued by the Commissioner is effective when served upon the licensee, agent, or other entity doing business without the required license. All orders shall remain effective and enforceable when served, except to the extent they are stayed, modified, terminated, or set aside by the Commissioner. Service of an order shall be made upon every party of record by hand delivery or by certified mail, return receipt requested. Delivery to the United States Postal Service shall be presumed to constitute delivery to the respondent, agent, or other entity doing business without the required license.

**SUBPART F: RULES AND PROCEDURES APPLICABLE TO PROCEEDINGS RELATING TO ASSESSMENT AND COLLECTION OF CIVIL MONEY PENALTIES**
**Section 360.500 Scope**  
**EMERGENCY**

The rules and procedures of this Subpart shall apply to proceedings to assess and collect civil money penalties. The Commissioner has the power to assess civil money penalties pursuant to Section 0.05(a)(6) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(6)].

**Section 360.510 Assessment of Penalties**  
**EMERGENCY**

- a) Relevant Considerations. In determining the amount of the civil penalty to be assessed, the Commissioner shall consider the gravity of the violation, the history of previous violations, the financial resources and good faith of the licensee or other principal parties, and any such other matters as justice may require.
- b) Amount. The Commissioner may assess civil money penalties graduated up to \$1,000 against any person for each violation of any provision of the Pawnbroker Regulation Act, any rule promulgated in accordance with the Pawnbroker Regulation Act, or any order issued by the Commissioner.

**Section 360.520 Effective Date of, Payment under, and Service of an Order to Pay**



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

**EMERGENCY**

- a) Effective date. Unless otherwise provided, civil money penalties assessed pursuant to this Subpart are due and payable 60 days after the order is served on the respondent.
- b) If the respondent both requests a hearing and serves an answer, civil penalties assessed pursuant to this Subpart are due and payable 60 days after an order to pay, issued after the hearing or upon default, is served upon the respondent, unless the order provides for a different period of payment. Civil penalties assessed pursuant to an order to pay issued upon consent are due and payable within the time specified therein.
- c) Payment. All penalties collected under this Subpart shall be paid by certified check or money order and be made payable to the Office of Banks and Real Estate.
- d) Service. Service of a civil money penalty shall be made upon each respondent by hand delivery or by certified mail, return receipt requested. Delivery to the United States Postal Service shall be presumed to constitute delivery to the respondent.

**SUBPART G: RULES AND PROCEDURES APPLICABLE TO PROCEEDINGS FOR  
REVOCATION OR SUSPENSION OF LICENSE**

**Section 360.600 Scope****EMERGENCY**

The rules and procedures in this Subpart shall apply to proceedings in connection with the suspension of license of a pawnshop pursuant to Section 0.05(a)(7) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(7)] and the revocation of license of a pawnshop pursuant to Section 0.05(a)(10) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(10)]. The revocation or suspension of license shall not impair or affect the obligation of either the pawnbroker or the pledger to fulfill the terms of any preexisting memorandum, contract, or note.

**Section 360.610 Grounds for Suspension of License****EMERGENCY**

The following are grounds for suspension of license pursuant to Section 0.05(a)(7) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(7)]:

- a) violations of the Pawnbroker Regulation Act;
- b) violations of any rule promulgated in accordance with the Pawnbroker Regulation Act; or
- c) violations of any other applicable law in connection with the operations of a pawnshop.

**Section 360.620 Grounds for Revocation of License****EMERGENCY**

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

The following are grounds for revocation of license pursuant to Section 0.05(a)(10) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(10)]:

- a) a licensee has been convicted of a felony in connection with the operations of a pawnshop;
- b) a licensee knowingly, recklessly, or has continuously violated the Pawnbroker Regulation Act, a rule promulgated in accordance with the Pawnbroker Regulation Act, or any order of the Commissioner;
- c) a fact or condition exists that, if it had existed or had been known at the time of the original application, would have justified license refusal; or
- d) the licensee knowingly submits materially false or misleading documents with the intent to deceive the Commissioner or any other party.

**Section 360.630 Notice to Customers****EMERGENCY**

If the Commissioner enters an order revoking the license of a pawnshop, the Commissioner shall, on the day the order becomes final, or such other day as the order prescribes, mail a written notification of revocation of license to all persons who have things in pledge at the most recent address listed on the pawn ticket. The Commissioner shall also publish the notification in two consecutive issues of a local newspaper of general circulation. The Commissioner shall be reimbursed by the licensee for all expenses incurred in connection with the notification. The Notification of License Revocation shall include the information provided in substantially the following form:

**NOTIFICATION OF LICENSE REVOCATION (centered, in caps and bold)**  
(DATE)

1. Pursuant to Section 0.05(a)(7) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(7)], the license of (name of pawnshop) has been revoked as of (the date the order becomes final).
2. (Name and address of pawnshop) is no longer permitted to engage in the business of receiving property in pledge or as security for money or other thing advanced.
3. The revocation of license shall not impair or affect the obligation of either the pawnbroker or the pledger to fulfill the terms of any preexisting memorandum, contract, or note.
4. If you have a current business transaction with (name and address of pawnshop), you should contact (address and phone number of Commissioner's agent) within 30 business days to make arrangements for the disposition of any business transaction.
5. The grounds for the license revocation are (list all grounds as stated in the order).

**Section 360.640 Effective Date of Revocation or Suspension; Service****EMERGENCY**



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

A revocation or suspension of license issued by the Commissioner is effective when served upon the respondent unless another date is specified. A suspension of license shall not exceed 30 days. All revocations or suspensions shall remain effective and enforceable, except to the extent they are stayed, modified, terminated, or set aside by the Commissioner. Service of the revocation or suspension of license shall be made upon every respondent by hand delivery or by certified mail, return receipt requested. Delivery to the United States Postal Service shall be presumed to constitute delivery to the respondent.

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

- 1) Heading of the Part: Real Estate Appraiser Certification
- 2) Code Citation: 68 Ill. Adm. Code 1455
- 3) Section Numbers:

|                          |
|--------------------------|
| <u>Emergency Action:</u> |
| 1455.10 Repeal           |
| 1455.15 Repeal           |
| 1455.16 Repeal           |
| 1455.20 Repeal           |
| 1455.30 Repeal           |
| 1455.40 Repeal           |
| 1455.50 Repeal           |
| 1455.60 Repeal           |
| 1455.70 Repeal           |
| 1455.80 Repeal           |
| 1455.200 Repeal          |
| 1455.205 Repeal          |
| 1455.210 Repeal          |
| 1455.300 Repeal          |
| 1455.305 Repeal          |
| 1455.310 Repeal          |
- 4) Specific statutory citation upon which the rule is based and authorized:  
Implementing Article 2 of the Real Estate License Act of 1983 [225 ILCS 455/Art. 2] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].
- 5) Effective Date of the Rule: July 1, 1998
- 6) If this emergency rule is to expire before the end of the 150-day period (other than by means of adopting the rule through the general rulemaking process), please specify the date: Not applicable
- 7) Date Filed in Agency's Principal Office: July 1, 1998
- 8) The Reason for the Emergency: Public Act 90-571, effective July 1, 1998, repeals the State's licensing law for real estate appraisers (found in Article 2 of the Real Estate License Act of 1983 [225 ILCS 455/Art. 2]) and replaces it with a new licensing law, the Real Estate Appraiser Licensing Act [P.A. 90-571].
- 9) A Complete Description of the Subjects and Issues Involved: The rulemaking implements the regulation of the real estate appraisal profession and requirements contained in Article II of the Real Estate License Act of 1983, which was repealed effective July 1, 1998.
- 10) Are there any proposed amendments pending on this Part? No

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

11) Statement of Statewide Policy Objectives, if applicable: This rulemaking will not affect local government.

12) Name, address and telephone number of the person to whom information and questions regarding this emergency rule shall be directed to:

Name: Bill Brown  
Address: Office of Banks and Real Estate  
500 East Monroe, Suite 900  
Springfield, Illinois 62701

Telephone: (217)782-3000

The full text of the Emergency Repealer begins on the next page:

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

TITLE 68: PROFESSIONS AND OCCUPATIONS  
CHAPTER VIII: OFFICE OF BANKS AND REAL ESTATE

## PART 1455

REAL ESTATE APPRAISER CERTIFICATION (REPEALED)

## SUBPART A: RESIDENTIAL AND GENERAL CERTIFICATION

|                  |   |
|------------------|---|
| Section          | Definitions   |
| 1455.10          |   |
| <u>EMERGENCY</u> |   |
| 1455.15          | Uniform Standards of Professional Appraisal Practice  |
| <u>EMERGENCY</u> |   |
| 1455.16          | Jurisdictional Exceptions/Supplemental Standards  |
| <u>EMERGENCY</u> |   |
| 1455.20          | Education and Experience Requirements for State Licensed Real Estate Appraiser  |
| <u>EMERGENCY</u> |   |
| 1455.30          | Education and Experience Requirements for Certified Residential and Certified General Real Estate Appraiser                                   |
| <u>EMERGENCY</u> |   |
| 1455.40          | Application as a State Licensed Real Estate Appraiser, Certified Residential Real Estate Appraiser or Certified General Real Estate Appraiser |
| <u>EMERGENCY</u> |   |
| 1455.50          | Examination   |
| <u>EMERGENCY</u> |   |
| 1455.60          | Nonresident Licensure/Certification   |
| <u>EMERGENCY</u> |   |
| 1455.70          | Nonresident/Temporary Practice  |
| <u>EMERGENCY</u> |   |
| 1455.80          | Upgrade and Downgrade of Appraiser License/Certification  |
| <u>EMERGENCY</u> |   |

## SUBPART B: EDUCATION PROVIDERS

|                  |   |
|------------------|---|
| Section          | Approval of Education Providers/Courses       |
| 1455.200         |   |
| <u>EMERGENCY</u> |   |
| 1455.205         | Appraiser Continuing Education (CE)           |
| <u>EMERGENCY</u> |   |
| 1455.210         | Fees - Education Providers/Courses (Repealed) |
| <u>EMERGENCY</u> |   |

## SUBPART C: GENERAL

|                  |          |
|------------------|----------|
| Section          | Renewals |
| 1455.300         |          |
| <u>EMERGENCY</u> |          |
| 1455.305         | Fees     |
| <u>EMERGENCY</u> |          |

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

## 1455.310 Granting Variances

EMERGENCY

**AUTHORITY:** Implementing Article 2 of the Real Estate License Act of 1983 [225 ILCS 455/Art. 2] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

**SOURCE:** Emergency rules adopted at 16 Ill. Reg. 16196, effective September 30, 1992, for a maximum of 150 days; rules adopted at 17 Ill. Reg. 1589, effective January 26, 1993; emergency amendment at 17 Ill. Reg. 6668, effective April 19, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13494, effective July 30, 1993; amended at 18 Ill. Reg. 2379, effective January 28, 1994; emergency amendment at 18 Ill. Reg. 3006, effective February 10, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 8428, effective May 24, 1994; amended at 19 Ill. Reg. 9176, effective June 26, 1995; emergency amendment at 19 Ill. Reg. 12503, effective August 16, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16604, effective December 1, 1995; amended at 20 Ill. Reg. 6488, effective April 30, 1996; recodified from Chapter VII, Department of Professional Regulation, to Chapter VIII, Office of Banks and Real Estate, pursuant to PA 89-23 and PA 89-508, at 20 Ill. Reg. 11984; amended at 21 Ill. Reg. 1685, effective January 27, 1997; amended at 21 Ill. Reg. 5538, effective April 18, 1997; emergency amendment at 22 Ill. Reg. 4132, effective February 4, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 8534, effective April 29, 1998, for a maximum of 150 days; repealed by emergency rulemaking at 22 Ill. Reg. 12973, effective July 1, 1998, for a maximum of 150 days.

## SUBPART A: RESIDENTIAL AND GENERAL CERTIFICATION

## Section 1455.10 Definitions

EMERGENCY

"Act" means the Real Estate License Act of 1983 [225 ILCS 455].

"Appraisal" or "real estate appraisal" means an analysis, opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate, for or in expectation of compensation. An appraisal may be classified by purpose into either a valuation or an analysis. A valuation is an estimate of the value of real estate or real property. An analysis is a study of real estate or real property other than estimating value.

"Appraisal Consulting" is the act or process of providing information, analysis of real estate data and recommendations or conclusions on diversified problems in real estate, other than estimating value.

"Appraisal Qualification Board" is a committee of the Appraisal Foundation established by Title XI of the Federal Financial

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

Institutions Reform, Recovery and Enforcement Act of 1989.

"Appraisal Report" means any written communication of an appraisal.

"Appraisal Standard Board" is a committee of the Appraisal Foundation established by Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"Appraisal Subcommittee" means the federal Appraisal Subcommittee established by Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. Chapter 34A).

"Appraiser" or "real estate appraiser" means any person who inspects, analyzes, or renders an opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate, for or in expectation of compensation.

"Certified General Real Estate Appraiser" means a real estate appraiser who holds a current, valid Certified General real estate appraiser's certificate issued under Article 2 of the Act.

"Certified Residential Real Estate Appraiser" means a real estate appraiser who holds a current, valid Certified Residential real estate appraiser's certificate issued under Article 2 of the Act.

"Commissioner" means the Commissioner of Banks and Real Estate.

"Committee" means the Real Estate Appraisal Committee established in Section 36.3 of the Act.

"Director" means the Director of Real Estate Appraisal appointed by the Commissioner, in accordance with Section 36.2a of Article 2 of the Real Estate License Act of 1983, to administer the Illinois appraisal program.

"Federally Related Transaction" means any real estate related financial transaction that:

a federal financial institution's regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates and requires the services of an appraiser; or

any other real estate related financial transaction for which a licensed or certified real estate appraiser is required under federal law or regulations.

"Federal Financial Institutions Regulatory Agencies (FFIRA)" means the Board of Governors of the Federal Reserve System, the Federal Deposit



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision and the National Credit Union Administration.

"Mass Appraisals" is defined as the process of valuing a universe of properties as of a given date, utilizing standard methodology, employing common data and allowing for statistical testing.

"Office (OBRE)" means the Office of Banks and Real Estate or its predecessor agencies.

"Real Estate" means an identified parcel or tract of land, including improvements, if any.

"Real Estate Related Financial Transaction" means any transaction involving:

the sale, lease, purchase, investment in or exchange of real property, or the financing thereof;

the refinancing of real property or interests in real property; or

the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

"Real Property" means one or more defined interests, benefits and rights inherent in the ownership of real estate.

"State Licensed Real Estate Appraiser" means a real estate appraiser who holds a current, valid real estate appraiser's license issued under Article 2 of the Act.

"USPAP" means the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation.

**Section 1455.15 Uniform Standards of Professional Appraisal Practice****EMERGENCY**

- a) The 1997 Uniform Standards of Professional Appraisal Practice (USPAP), effective January 1, 1997, by the Appraisal Standards Board of the Appraisal Foundation, 1029 Vermont Avenue, N.W., Suite 900, Washington, D.C. 20005-3517, are hereby incorporated by reference with no later amendments or editions.
- b) Real Estate Appraisers licensed/certified under the Act shall practice in accordance with USPAP standards except where the standard(s) is contrary to Illinois Law or public policy (USPAP, Jurisdictional

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

Exception). Supplemental standards applicable to appraisals for specific purposes or property types may be issued by public agencies and certain client groups (e.g., regulatory agencies, eminent domain authorities, asset managers and financial institutions), provided that such supplemental standard(s) does not diminish the purpose, intent or content of the requirements of the USPAP.

- c) A copy of USPAP is available for inspection in the Division of Real Estate Appraisal Administration, Office of Banks and Real Estate, located at 500 East Monroe, Suite 500, Springfield, Illinois 62701 and may be purchased at cost from the Office (OBRE), if available; and is available for purchase from the Appraisal Standards Board of the Appraisal Foundation.

**Section 1455.16 Jurisdictional Exceptions/Supplemental Standards****EMERGENCY**

All written appraisal reports developed in part or solely by an Illinois Licensed/Certified Appraiser shall identify all persons providing significant contributions to the analysis and conclusions. Each appraiser's Illinois license/certification number, designated title (State Licensed, Certified Residential, or Certified General Real Estate Appraiser) and date of license/certification expiration shall appear near the name (and signature) on the appraisal certificate.

**Section 1455.20 Education and Experience Requirements for State Licensed Real Estate Appraiser****EMERGENCY**

- a) Education. A total of 75 hours of real estate appraisal courses are required for examination and licensure as a State Licensed Real Estate Appraiser. The 75 hours shall be in courses recommended by the Committee and approved by the Commissioner. Specific hour requirements are mandatory in each of 3 curricula.

1) Courses approved will be assigned to an Illinois (IL) curriculum and classroom hours must be achieved as follows:

- A) Standards of Professional Appraisal Practice--15 hours (IL I).
- B) Basic Principles of Appraisal--30 hours (IL II).
- C) Residential Valuation Procedures/Single Family Appraisal--30 hours (IL III).

2) Courses completed prior to January 1, 1993.

- A) Courses completed prior to January 1, 1993, shall be accepted by the Office (OBRE), upon review and approval of the Committee, if they are substantially equivalent to the courses in Section 1455.20(b). In determining substantial equivalence, the Committee shall compare the content of each course submitted to the topic requirements as set forth in Section 1455.20(b).

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

B) The Commissioner shall approve real estate appraisal courses, upon recommendation by the Committee, with or without a final examination and whether or not the provider was approved by OBRE.

C) Education credit may be earned by an applicant who successfully completes the examination(s) for approved course(s) even though the applicant did not participate in the classroom portion of the instruction.

3) All courses completed after January 1, 1993, shall be from course providers approved by OBRE in accordance with Section 1455.200. Credit will be earned only after course attendance and successful completion of a final examination.

4) Education credit may be earned by teaching courses approved by OBRE. To obtain education credit for teaching, the applicant shall provide verification from the education provider of the time period of employment and the course name.

A) One hour of education credit for every one hour of classroom instruction shall be awarded.

B) Education credit for teaching shall be awarded for only one presentation from each curriculum IL I, IL II, IL III, IL IV and IL V; however, credit will be given for presentation of two 15 hour courses in curriculum IL II, IL III, IL IV and IL V. (Credit shall not be allowed for repetitions.)

C) Education credit for teaching shall be awarded for one presentation of each different course in IL E curriculum.

b) Experience. Experience credit is not required for an applicant to sit for examination or for licensure; but, 500 hours of appraisal experience credit is required for the first renewal of a license following an original issue date of 24 months, or longer.

1) Documentation of the 500 hours of experience shall be submitted on forms provided by OBRE. To expedite processing, the documentation may be submitted with the original application for licensure or as soon as the experience requirement is met; otherwise, it shall be submitted with the renewal application.

2) The 500 hours of experience may be awarded for experience conforming to Section 1455.30(b)(3) through (6).

3) Mass appraisal experience may be submitted in accordance with Section 1455.40(a)(2)(B).

4) The 500-hour experience requirements may be waived by the Commissioner, upon recommendation of the Committee, in accordance with Section 36.11(e)(2) of the Act.

# **Section 1455.30 Education and Experience Requirements for Certified Residential and Certified General Real Estate Appraiser**

## **EMERGENCY**

An applicant for certification as a Certified Residential or Certified General

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

Real Estate Appraiser shall meet the following education and experience requirements:

a) Education. A total of 120 hours for Certified Residential Real Estate Appraiser and 165 hours for Certified General Real Estate Appraiser are required. The courses must be real estate appraisal courses recommended by the Committee and approved by OBRE. For Certified Residential, a specific hour requirement is mandatory in each of 4 curricula. For Certified General, a specific hour requirement is mandatory in each of 5 curricula.

1) Courses approved for Certified Residential Appraiser will be assigned to an IL curriculum as set forth in Section 1455.200(b), and classroom hours must be achieved as follows:

A) Standards of Professional Appraisal Practice--15 hours (IL I).

B) Basic Principles of Appraisal--30 hours (IL II).

C) Valuation Procedures for Residential Property--30 hours (IL III).

D) Elective Courses-- 45 hours (IL E).

i) Hours that have been approved in excess of the curriculum requirement, for courses in curricula IL I, IL II and IL III, will be credited as electives; however, repetitious coursework in the same curriculum will not be credited.

ii) Coursework in the IL IV and IL V curricula will be credited as electives; however, repetitious coursework in the same curriculum will not be credited.

2) Courses approved for Certified General Appraiser will be assigned to an IL curriculum as set forth in Section 1455.200(b), and classroom hours must be achieved as follows:

A) Standards of Professional Practice--15 hours (IL I).

B) Basic Principles of Appraisal--30 hours (IL II).

C) Valuation Procedures for Nonresidential Property--30 hours (IL IV).

D) Income Approach, Capitalization--30 hours (IL V).

E) Elective Courses--60 hours (IL E).

i) Hours that have been approved in excess of the requirement, for courses in curricula IL I, IL II, IL IV and IL V, will be credited as electives; however, repetitious coursework in the same curriculum will not be credited.

ii) Coursework in the IL III curriculum will be credited as electives; however, repetitious coursework in the same curriculum will not be credited.

3) Courses completed prior to January 1, 1993.

A) Courses shall be accepted by OBRE, upon review and approval of the Committee prior to January 1, 1993, if they are substantially equivalent to the curricula in Section 1455.200. In determining substantial equivalence, the

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

Committee shall compare the content of each course submitted to the topic requirements as set forth in Section 1455.200.

B) The Commissioner shall approve real estate appraisal courses, upon recommendation by the Committee, with or without a final examination and whether or not the provider was approved by OBRE.

C) Education credit may be earned by an applicant who successfully completes the examination(s) for approved course(s) set forth in subsection (a) above even though the applicant did not participate in the classroom portion of the instruction.

4) All courses completed after January 1, 1993, shall be from courses and course providers licensed by OBRE in accordance with Section 1455.200. Credit will be earned only after course attendance and successful completion of an examination.

5) Education credit may be earned by teaching courses approved by OBRE. To obtain education credit for teaching, the applicant shall provide verification from the education provider of the time period of employment and the course name.

A) One hour of education credit for every one hour of classroom instruction shall be awarded.

B) Education credit for teaching shall be awarded for only one presentation from each curriculum IL I, IL II, IL III, IL IV and IL V; however, credit will be given for presentation of two 15 hour courses in curriculum IL II, IL III, IL IV and IL V. (Credit shall not be allowed for repetitious presentations.)

C) Education credit for teaching shall be awarded for one presentation of each different course in IL E curriculum.

b) Experience. Two years of appraisal experience is required for an applicant to be eligible to sit for the examination. Experience shall be earned in the following manner:

1) One year is defined as 1,000 hours and 12 months (2 years equal 2,000 hours and 24 months). A maximum of 1,000 hours of credit may be earned by the applicant in any calendar year; however, a minimum of 24 months of experience is required.

2) The 2,000 hour experience requirement may be awarded from approved experience which shall include fee appraisal, staff appraisal, mass appraisal, ad valorem tax appraisal, mass ad valorem appraisal, review appraisal or appraisal analysis, highest and best use analysis, feasibility analysis or study, real estate sales and brokerage, real estate counseling, real property management, teaching of OBRE approved appraisal courses and authorship pertaining to real estate appraisal or related subjects.

3) For Certified Residential, a minimum of 50% of the requirement must be experience relating to residential property. For Certified General, a minimum of 50% of the requirement must be

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

experience relating to nonresidential property. Hours shall be awarded for various types of appraisal and other experience as follows:

A) 20 hours for apartment property with 5-24 units.  
B) 40 hours for apartment property with more than 24 units.  
C) 20 hours for vacant land zoned for business, commercial, industrial; planned unit development, multiple family, single family which will accommodate more than one unit; and agriculture.

D) 20 hours for industrial property with buildings up to and including 25,000 square feet.

E) 40 hours for industrial property with buildings over 25,000 square feet.

F) 20 hours for office space up to and including 10,000 square feet.

G) 40 hours for office space over 10,000 square feet.

H) 20 hours for retail space up to and including 10,000 square feet.

I) 40 hours for retail space over 10,000 square feet.

J) 40 hours for specialized or special use property appraisals.

K) 40 hours for operating or specialized agriculture property.

L) 10 hours for single family residential property.

M) 15 hours for 2, 3 and 4 unit residential property.

N) 5 hours for vacant residential land.

O) Additional hours may be credited for appraisals. Experience hours listed in A through N are considered typical. If an applicant feels more hours should be awarded for an appraisal, he/she must list the hours requested and attach a written justification to the appraisal log. OBRE will consider the additional hours based upon the applicant justification statement and may request a photocopy of the appraisal(s) to assist in the decision. Experience credit will be awarded on time spent in the development of the appraisal and preparation of the report. Travel time will not be considered.

P) Teaching Experience. Credit for teaching of OBRE approved appraisal courses shall not exceed 400 hours.

i) To obtain credit for teaching experience, the applicant shall provide verification from the education provider of the time period of such employment and the course name;

ii) Two hours of experience credit for every hour in the classroom shall be awarded (up to 400 hours) upon approval of the experience by the Committee.

iii) Education credit for teaching shall be awarded for only one presentation from each curriculum IL I, IL II, IL III, IL IV and IL V; however, credit will be given for presentation of two 15 hour courses in



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

curriculum IL II, IL III, IL IV and IL V. (Credit shall not be allowed for repetitious presentations.)

iv) Education credit for teaching shall be awarded for one presentation of each different course in IL E curriculum.

v) An applicant may not earn both education and experience credit for teaching the same course.

Q) Authorship. Credit for authorship of appraisal or appraisal related material shall not exceed 200 hours. The applicant shall submit to OBRE, at the time of application, a copy of the article, textbook or other published material and a statement indicating the amount of time spent in preparing these materials. OBRE will evaluate the material and may award experience credit based upon its judgment as to the contribution of skill or knowledge to the applicant or appraisal industry.

R) Real Estate Sales and Brokerage experience shall be accepted if the experience is directly related to performing or reviewing appraisals, in accordance with Sections 1455.30(b)(3) through (6) and 1455.40(a)(2).

S) Real Estate Counseling experience shall be accepted if it meets USPAP Standards 4 and 5. The experience will be awarded in accordance with Sections 1455.30(b)(3) through (6) and 1455.40(a)(2).

T) Real Property Management experience shall be accepted if the experience is directly related to performing or reviewing appraisals, in accordance with Sections 1455.30(b)(3) through (6) and 1455.40(a)(2).

U) Experience for mass appraisal, ad valorem tax appraisal and mass ad valorem appraisal shall be documented by the applicant's affidavit detailing the experience credit being requested; shall be certified by the assessment official in accordance with Section 36.11(b), Article 2, of the Act; and reported to OBRE in accordance with Section 1455.40(a)(2)(B).

4) Field and review appraisals conducted prior to January 1, 1992, shall:

- A) Identify and describe the real estate being appraised;
- B) Contain an indication of highest and best use (analysis);
- C) Identify the real property interests being appraised;
- D) Contain a definition of the value being estimated;
- E) Set forth the effective date of the value estimate and the date of the appraisal report;
- F) Set forth all assumptions and limiting conditions that affect the analyses, opinions and conclusions;
- G) Set forth (in the report or file memorandum) the appraisal procedures followed and the reasoning that supports the analysis, opinions and conclusions;

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

H) Include the signature of the individual responsible for the analysis, opinions and conclusions contained in the report. The applicant seeking experience credit shall have signed the report or shall be listed in the report as an individual who provided a significant contribution. An affidavit of significant contribution shall be considered by OBRE if it is signed by the appraiser who signed the report or by an official of the organization, government, firm or other entity who was responsible for causing the appraisal to be prepared.

5) Mass appraisal projects completed prior to January 1, 1992, shall have been performed by application of mass appraisal methods and techniques deemed professionally appropriate at the time the project was undertaken. In evaluating the mass appraisal experience, OBRE will consider methods and techniques employed relative to Standard 6 of USPAP and the participation in the mass appraisal project by the applicant.

6) Appraisals of all types prepared after January 1, 1992, must conform to the standards set forth in USPAP that were in effect on the date the appraisal was signed.

**Section 1455.40 Application as a State Licensed Real Estate Appraiser, Certified Residential Real Estate Appraiser or Certified General Real Estate Appraiser**  
**EMERGENCY**

a) An applicant for examination/licensure/certification as a State Licensed Real Estate Appraiser, Certified Residential Real Estate Appraiser or Certified General Real Estate Appraiser shall file an application with the Office (OBRE) on forms provided by OBRE. The application shall remain valid for one year from the date of submission. The application shall include but not be limited to the following:

- 1) Verification of education (i.e., transcripts, certificates of course completion, official records from provider) as set forth in Section 1455.20 for State Licensed Appraiser and 1455.30 for Certified Residential Appraiser and Certified General Appraiser.
- 2) Verification of experience. All experience for the Certified Residential and Certified General Real Estate Appraisers shall meet the requirements set forth in Section 1455.30.

A) In accordance with Section 5836.11 of the Act, the applicant shall submit an appraisal log which shall include a general location (e.g., street, subdivision, office file number or parcel number) of the property; city and state location; date of the appraisal report; property type; approximate size of the property land and buildings; the tally of the hours being requested by the applicant; and a certifying statement that the applicant has personally inspected the

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

property or his/her name appears in the appraisal report as having made a significant contribution to the report.

- B) An applicant seeking mass appraisal experience shall include with the application his/her affidavit as prescribed in Section 36.11(b)(3) of the Act. The affidavit shall detail the experience being requested by the applicant and provide the following minimum information:

- i) The boundaries of the mass ad valorem tax appraisal/assessment project.
- ii) The number of parcels included in the mass ad valorem appraisal/assessment project.
- iii) The types of property (residential, commercial, industrial) included in the project and the ratio of each.
- iv) The time period in which the mass ad valorem tax appraisal/assessment took place.
- v) The number and type (residential or nonresidential) of properties valued (the analysis and establishment of values) through the cost, income and market sale appraisal techniques.
- vi) The number and type (residential or nonresidential) of reviews and analyses of appraisals employing the cost, income and market sale appraisal techniques.
- vii) The specific address where records pertaining to such mass ad valorem tax appraisals/assessments, ad valorem appraisals or appraisal reviews are filed.
- viii) A certification, in accordance with Section 36.11(b) of Article 2 of the Act.

- C) OBRE may require the applicant to provide selected samples of the appraisals submitted for experience credit.

- 3) A complete work history for a period of five years preceding the application date;

- 4) The required fee provided for in Section 36.6 of the Act; and

- 5) Certification from the state or territory of the United States or the foreign country in which the applicant was originally licensed/certified as a real estate appraiser and any location in which the applicant is currently licensed/certified as a real estate appraiser, if applicable, stating:

- A) The time during which the applicant was licensed/certified, and
  - B) Whether the file of the applicant contains any record of any disciplinary actions taken or pending.
- b) When the accuracy of any submitted documentation or the relevance or sufficiency of the coursework or experience is questioned by OBRE or the Committee because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure/certification shall be requested to:
- 1) Provide such information as may be necessary; and/or

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

- 2) Appear for an interview before the Committee or the Director to explain such relevance or sufficiency, clarify information, or clear up any discrepancies or conflicts in information.

- c) Upon receipt of the application and all supporting documentation, the applicant's file will be evaluated by OBRE. The applicant will be notified in writing of approval to sit for the examination or the reasons the application has been deferred or denied.

**Section 1455.50 Examination****EMERGENCY**

- a) The examination administered by the Office (OBRE) or its designated testing service shall be an examination which covers the content of the National Uniform Examination and is approved by the Appraisal Qualification Board.

- b) The passing score on the examination shall be 75.

- c) OBRE shall accept the examination results of an Illinois appraisal candidate who has taken the examination for certification or licensure in another jurisdiction under the following conditions:

- 1) The examination has been approved by the Appraisal Qualification Board.

- 2) The examination taken in another jurisdiction can only be applied toward an Illinois equivalent appraisal category. If there is no equivalent category, the examination would not be accepted.

- 3) The examination report is the official test score report from the testing entity.

- A) The applicant is responsible for obtaining the report from the testing entity and paying any fees to obtain the report.

- B) OBRE will not accept or apply the test results until such time as the applicant is notified of having met all requirements for licensure or certification in Illinois.

- C) OBRE will not issue a license or certificate until receipt from the applicant of the federal fee required by Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

**Section 1455.60 Nonresident Licensure/Certification****EMERGENCY**

- a) A license/certification shall be issued without examination to a nonresident real estate appraiser licensed/certified under the laws of his/her home state if:

- 1) The appraiser applicant is the holder of an active license or certification in his/her home state;

- 2) The standards of that state for licensing/certifying as a real estate appraiser are substantially equivalent to the minimum standards in Illinois;

- 3) The real estate appraiser's home state grants reciprocal

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

privilege to real estate appraisers licensed/certified in Illinois; and

- 4) There is no disciplinary proceeding pending or unresolved against the applicant in his/her home state.

b) The real estate appraiser shall file an application, on forms provided by the Office (OBRE), which includes:

- 1) A statement bearing the seal of the licensing authority in the state in which he/she is licensed/certified, showing an active license/certification as a real estate appraiser;
  - 2) A certification of irrevocable consent required by Section 5836.13 of the Act;
  - 3) The business address in the state of reciprocity;
  - 4) The required fee provided for in Section 36.6(1) and (2) of the Act.
- c) Upon request by OBRE, the real estate appraiser shall attest in writing, on forms supplied by OBRE, to the fact that the license is active and in good standing and that he/she understands that the reciprocal license is valid only as long as he/she remains a resident of that state and will be invalid on the date his/her home state license/certification is expired, is suspended, is inactive or otherwise not in good standing.
- d) A reciprocal license/certification becomes invalid when the licensee changes his/her residence to Illinois or any other state.
- e) All requirements for licensure by reciprocity shall be met within one year of the date of original application or the application shall be denied and the fee forfeited. Thereafter, to be considered for licensure, such applicant shall file a new application and fee.

**Section 1455.70 Nonresident/Temporary Practice****EMERGENCY**

a) A nonresident appraiser, licensed/certified in another jurisdiction, may apply for a temporary appraisal practice permit by filing with the Office (OBRE), on an application provided by OBRE. The information submitted on the application shall include, but not be limited to, the following:

- 1) The applicant's name, address, social security number, any other such information as might be necessary to identify the applicant.
- 2) A certification from the agency in the applicant's home state of licensure/certification, certifying that the applicant is a duly licensed/certified real estate appraiser in good standing; and, setting forth any discipline taken (or pending) by the agency against the applicant.
- 3) An estimate of the amount of time required to perform the appraisal assignments(s) and a description of the property or properties to be appraised by the applicant.
- 4) An irrevocable consent that service of process in any action against the applicant that may arise from the applicant's

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

Illinois appraisal activities may be made by delivery of process on the Illinois Appraisal Administrator.

- 5) Such other information as may be necessary to determine the applicant's eligibility for temporary appraisal privileges within the State of Illinois.

b) Limitations and requirements for temporary appraisal practice are as follows:

- 1) The temporary practice permit shall be for a period of 60 days from the date of issuance. The permit may not be renewed but may be extended for 30 days upon written request and payment of an extension fee, at least 14 business days prior to the expiration of the original temporary practice permit;
- 2) Each applicant is limited to 2 temporary appraisal practice permits in any calendar year;
- 3) Persons granted temporary appraisal practice permits shall not advertise, solicit or otherwise represent themselves as State Licensed Real Estate Appraisers, Certified Residential Real Estate Appraisers or Certified General Real Estate Appraisers; and
- 4) Applicants will be required to pay any fee required by the federal government under Title XI of the Federal Institutions Reform, Recovery and Enforcement Act of 1989.

**Section 1455.80 Upgrade and Downgrade of Appraiser License/Certification**  
**EMERGENCY**

The three categories of appraiser licensure under Article 2 of the Act are ranked according to the level of education and experience required to qualify for each respective license or certificate. The categories of licensure are ranked, in order from the least amount of education and experience required to the highest amount of education and experience required, as follows: State Licensed Real Estate Appraiser, State Certified Residential Real Estate Appraiser, and State Certified General Real Estate Appraiser.

A State Licensed Real Estate Appraiser, State Certified Residential Real Estate Appraiser, or State Certified General Real Estate Appraiser may apply to upgrade or downgrade his or her license to a higher or lower rank by filing the appropriate application, meeting all license requirements, and paying all fees in effect at the time of application for the higher or lower rank.

- a) Upon the issuance to an appraiser of a license at a higher or lower rank, the term of the appraiser's previously active license, pursuant to Section 36.12 of the Act, shall end.
- b) Any actions by the Office of Banks and Real Estate relating to allegations, complaints, investigations, prosecutions, discipline, supervision, or sanctions pursuant to the Act or this part that apply to an individual holding an appraiser license shall continue to apply to the individual no matter what rank of appraiser licensure the individual has held, is holding, or may hold in the future.



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

## SUBPART B: EDUCATION PROVIDERS

**Section 1455.200 Approval of Education Providers/Courses**  
**EMERGENCY**

a) An entity seeking approval as an appraisal education provider shall submit an application, on forms provided by the Office (OBRE), and shall meet the following minimum criteria:

- 1) The provider shall:
  - A) Maintain a fixed office that is adequate for the maintenance of all records, office equipment, files, telephone equipment and office space necessary for customer service;
  - B) Offer a minimum of one curriculum that conforms to the standards of subsections (c) and (d) of this Section;
  - C) Administer a mandatory final examination for each pre-license course offering;
  - D) Provide each student within 21 days of completion of each course (or within 21 days of a request by a student or OBRE), a certification of completion, transcript or other document verifying hours of attendance, successful course completion and identifying the course by name and number, if any. In addition, such certificate, transcript or other document shall indicate the provider's address and telephone number, the location and date of the course, and include an authorized signature of the course provider's representative. Documentation for CE courses may be in the form of a Uniform Request for Continuing Education, which is a form supplied by national appraisal organizations;
  - E) Submit the fee(s) set forth in Section 1455.305;
  - F) Comply with all applicable fire, building, zoning, health, safety and accessibility codes and standards pertaining to the premises, equipment and facilities of the course site;
  - G) Provide the student with information which specifies the course of study to be offered; the tuition to be charged; the school's policy regarding refund of unearned tuition when a student is dismissed or withdraws voluntarily or through hardship; any additional fee to be charged for supplies, materials or books which become the property of the student upon payment; and such other matters as are material to the relationship between the school and the student (e.g., cost of retaking a course, current status of licensure, any disciplinary action taken by OBRE and attendance requirements);
  - H) Maintain for each student a record which shall include the course of instruction undertaken, dates of attendance, and areas of study completed satisfactorily. Each student's record shall be maintained by the school for a period of at least 7 years and shall be available for inspection by the

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

student or by OBRE or its designee during regular business hours; and

- I) Employ competent instructors.
  - i) Beginning December 31, 1993, instructors for courses in the IL IV and IL V curricula shall be Certified General Real Estate Appraisers or full time faculty members of a 4-year college or university.
  - ii) Beginning December 31, 1993, instructors for courses in the IL I, IL II and IL III curricula shall be Certified Residential or Certified General Real Estate Appraisers or full time faculty members of a 4-year college or university.
  - iii) For CE courses and courses in the IL E curriculum, instructors should be Certified Residential or General Real Estate Appraisers or persons with education and/or experience in appraisal or the subject matter of the course.
- 2) Approved course providers shall not advertise as being endorsed, recommended or accredited by OBRE. Course providers may indicate that the provider and course of study have been approved by OBRE.
- 3) Illinois Colleges, Universities, and Agencies
  - A) Colleges and universities which apply as appraisal education providers under subsection (a)(1) above shall be accredited by the regional accrediting body and offer either or both an associate's and baccalaureate degree program.
  - B) Illinois Colleges and universities will not be required to pay the application fees required by Section 1455.305.
  - C) Agencies under the jurisdiction of the Governor of the State of Illinois will not be required to pay the application fees required for education providers by Section 1455.305.
- b) Appraisal Education Sub-Providers
  - 1) Sub-organizations (such as chapters, branch schools and local associations) may seek CE course approval (licensure) under the appraisal education provider's license of the parent organization. Such sub-providers may not seek approval for pre-license appraisal courses. Sub-providers may offer pre-license courses as a co-sponsor with the parent provider.
  - 2) Sub-organizations need not apply to OBRE to become an approved CE course provider but may seek course approval under the providership of the parent organization.
    - A) A sub-provider need not comply with (A), (C), (D) or (H) of subsection (a)(1) of this Section.
    - B) The license of the parent organization may not be jeopardized or disciplined as a result of the actions of the sub-provider.
  - 3) The appraisal education sub-provider, on each application for CE course approval, must certify:
    - A) The sub-organization has reviewed the CE course and approves

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

the course content;

- B) The sub-organization is an authorized affiliate of the parent organization;
- C) The parent organization has given the sub-organization permission to seek course approval (licensure) under the umbrella of the parent organization's provider's license; or, that the parent organization will recognize the course for CE credit within its own CE program.

- 4) Each CE course sub-provider shall issue to each registered student a certificate of attendance that shall indicate the student's name, social security number or appraiser license/certification number, the date(s) and location of the course, the signature of an authorized representative of the sub-provider and a statement that the student did or did not attend a minimum of 90% of the course. A certificate of attendance may be in the form of a course attendance diploma, a certification letter, an official transcript or a "Uniform Request for Continuing Education Credit".

- 5) Within twenty-one (21) days after completion of each CE course presentation, the sub-provider shall certify to OBRE a roster of all duly registered students. The certification shall be on forms provided by OBRE and shall include:

- A) The CE course license number;
- B) The license number of the parent provider;
- C) The date(s) and location of the CE presentation;
- D) The name of the instructor(s);
- E) A listing of students by full name, appraiser license/certification number (or social security number) and an indication that the student did or did not attend a minimum of 90% of the course (the names shall be listed in alphabetical order); and
- F) The authorized signature of a representative of the sub-organization.

- c) Required Pre-License/Certification Course Curriculum

- 1) Standards of Professional Appraisal Practice--15 hours (IL I). This course curriculum reviews USPAP adopted by the Appraisal Subcommittee. Topics are:

- A) Ethics Provision - USPAP
- B) Competency Provision - USPAP
- C) Departure Provision - USPAP
- D) Standard 1 - USPAP
- E) Standard 2 - USPAP
- F) Standard 3 - USPAP
- G) Standard 4 - USPAP
- H) Standard 5 - USPAP
- I) Standard 6 - USPAP

- 2) Basic Principles of Appraisal--30 hours (IL II). This course curriculum shall include an overview of the appraisal process

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

covering the principles of market and valuation analysis necessary for appraising real property and an introduction to appraisal theory, concepts, techniques and the level of competence required to perform professional appraisal analyses. Topics are:

- A) Influences on Real Estate
- B) Real Estate/Real Property/Personal Property
- C) Real Estate Ownership
- D) Legal Descriptions
- E) Types of Value
- F) Economic Principles
- G) Real Estate Markets and Market Analysis
- H) Money and Capital Markets
- I) Real Estate Financing
- J) Valuation Process
- K) Neighborhood Data and Analysis
- L) Site Data and Analysis
- M) Improvement Data and Analysis
- N) Basic Construction and Design
- O) Highest and Best Use Analysis
- P) Sources of Valuation Data
- Q) Accumulation of Valuation Data
- R) Overview of the Three Approaches to Value
- S) Reconciliation and Final Value Estimate
- T) Overview of the Appraisal Report

- 3) Residential Valuation Procedures/Single Family Appraisal--30 hours (IL III). This course curriculum shall be designed to provide an understanding and working knowledge of the procedures and techniques required to estimate the market value of residential properties. Emphasis should be placed on the extraction of data and the correct application of the three approaches to real estate valuation. Topics are:

- A) Basic Statistics
- B) Residential Site Valuation - Sales Comparison
- C) Residential Site Valuation - Allocation
- D) Residential Site Valuation - Extraction
- E) Cost Approach - Cost New Estimates
- F) Cost Approach - Entrepreneurial Profit
- G) Cost Approach - Types of Depreciation
- H) Cost Approach - Depreciation - Age-Life Method
- I) Cost Approach - Depreciation - Market Extraction Method
- J) Cost Approach - Depreciation - Breakdown Method
- K) Cost Approach - Application
- L) Sales Comparison Approach - Units of Comparison
- M) Sales Comparison Approach - Elements of Comparison
- N) Sales Comparison Approach - Cash Equivalency
- O) Sales Comparison Approach - Making Adjustments
- P) Sales Comparison Approach - Application

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

- Q) Income Capitalization Approach - Gross Rent Estimates  
 R) Income Capitalization Approach - Gross Rent Multiplier  
 S) Income Capitalization Approach - Application  
 T) Residential Appraisal Reports  
 4) Valuation Procedures, Nonresidential Properties--30 hours (IL IV). This course curriculum focuses on the appraisal of nonresidential properties and provides a practical solution for estimating value by an in-depth study of appraisal theory and the development of advanced valuation skills. Topics are:  
 A) Basic Statistics  
 B) Site Valuation - Sales Comparison  
 C) Site Valuation - Allocation/Extraction  
 D) Site Valuation - Subdivision Analysis/Other Methods  
 E) Cost Approach - Cost New Estimates  
 F) Cost Approach - Entrepreneurial Profit  
 G) Cost Approach - Types of Depreciation  
 H) Cost Approach - Depreciation - Age-Life Method  
 I) Cost Approach - Depreciation - Market Extraction Method  
 J) Cost Approach - Depreciation - Breakdown Method  
 K) Cost Approach - Application  
 L) Sales Comparison Approach - Units of Comparison  
 M) Sales Comparison Approach - Elements of Comparison  
 N) Sales Comparison Approach - Cash Equivalency  
 O) Sales Comparison Approach - Making Adjustments  
 P) Sales Comparison Approach - Application  
 Q) Income Approach - Income Estimates  
 R) Income Approach - Expense Estimates  
 S) Income Approach - Capitalization Rates  
 T) Income Approach - Direct Capitalization  
 U) Income Approach - Income Multipliers  
 V) Income Approach - Application  
 W) Appraisal Reports  
 5) Income Capitalization--30 hours (IL V). Courses in this curriculum are to provide alternative methods of estimating present value based on income forecasts. There courses focus on more advanced capitalization methods and techniques. Topics include:  
 A) Six Functions of \$1  
 B) Gross Income Estimates  
 C) Vacancy and Collection Loss  
 D) Operating Expense Estimates  
 E) Reserves for Replacement  
 F) Operating Statement Ratios and Multipliers  
 G) Debt Service/Equity Dividend  
 H) Direct Capitalization  
 I) Overall Rate Development - Market Extraction  
 J) Overall Rate Development - Band of Investment  
 K) Overall Rate Development - Ratios/Multipliers

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

- L) Overall Rate Development - Residual Techniques  
 M) Equity Dividend Rate  
 N) Debt Coverage Ratio  
 O) Cash Flow Estimates  
 P) Reversion Estimates  
 Q) Discount and Yield Rates  
 R) Yield Capitalization Overview  
 S) Discounted Cash Flow Analysis Overview  
 T) Lease Provisions, Analysis and Valuation  
 U) Lease Analysis  
 V) Partial Interest Valuation  
 6) Courses in the IL E curriculum (electives) are courses with topics that are considered more advanced; and/or cover appraisal topics not covered in the core course curricula. Credit for elective hours can be achieved by successful completion of courses approved in the IL E curriculum or by successful completion of courses with excess hours approved and allocated for elective credit in accordance with subsection (c)(9) of this Section.  
 7) Each pre-license/certification course shall be a minimum of 15 credit hours.  
 8) All pre-license/certification courses shall include a final examination.  
 A) Each final exam for curricula IL II, IL III, IL IV, IL V and IL E (elective) courses shall consist of a minimum of 50 questions; however, courses approved for 15 hours credit may have a final examination with 25 questions.  
 B) The final exam for IL I courses shall consist of a minimum of 25 questions.  
 C) The applicant shall pass the examination in order to obtain credit for a course. A passing score shall be a minimum of 70% of examination questions answered correctly.  
 9) If 80% of the required topics for IL II through IL V courses are presented, the course shall be approved for the minimum required hours. Two 15 hour courses from a single provider may be approved to meet a 30 hour curriculum requirement, provided the courses together cover a minimum of 80% of the required curriculum topics. An application for one 15 hour course in a curriculum requiring 30 hours will be denied. For courses in the IL I curriculum 100% of the listed topics must be covered. IL E courses will be approved based upon the Committee's review of the course as to the value of topics to be presented and their relationship to the appraisal process.  
 A) Classroom hours in excess of the curriculum requirement may be approved for elective credit. Such approval is limited to 9 excess hours for courses in a 30 hour curriculum requirement and 5 excess hours for courses in a 15 hour curriculum requirement;



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

B) Excess hours may be approved, within the above limits based upon the Committee's evaluation of the appraisal educational value of the excess hours.

10) All changes in course content shall be submitted to OBRE for review and evaluation.

11) The license for all pre-license/certification courses shall expire 36 months from the date of issue. An approved provider may renew the course approval by completing a renewal application and paying the renewal fee, in accordance with Sections 1455.300 and 1455.305 of this Part.

## d) CE Course Requirement

1) Courses licensed by OBRE for pre-license/certification appraiser education are approved for CE credit. The renewal applicant will be awarded credit for attendance at these courses provided the license for the course was valid and in good standing at the time of attendance; and provided the course is not repetitious as indicated by Section 1455.205. CE credit for pre-licensure certification education will be awarded as 15 hours for 15 hour courses and 20 hours for 30 (or more) hour courses.

2) CE courses shall be approved by the Director, upon the recommendation of the Committee, for courses with or without a final examination.

3) The application for each course approval shall include a description of the course, a course (or instructor's) outline that shall list the time frame for topic presentation, the number of classroom instruction hours excluding examination, the time allotted for examination (if any), the specific course name as it will appear on transcripts or course certifications, a sample of the certificate, the transcript or other documentation that will be used to document the student's attendance and any other information that may be required by OBRE.

A) An applicant may be required to submit texts and all other course materials for evaluation by the Appraisal Committee.

B) The application for CE courses being offered by a sub-provider shall also include a certification in accordance with subsection (b)(3) of this Section.

4) The Committee/Director shall approve courses that would contribute to the integrity, extension and enhancement of professional skills and knowledge in the practice of Real Estate Appraisal. Courses submitted for approval should be designed to cover at least one of the following topics:

A) Ad Valorem Taxation

B) Arbitration

C) Business Courses (related to practice of real estate appraisal)

D) Construction Cost Estimating

E) Ethics and Standards of Professional Practice

F) Illinois Appraiser Licensing Laws and/or Rules

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

G) Land Use, Planning, and Zoning

H) Property Development

I) Real Estate Appraisal (valuation/evaluation)

J) Real Estate Management, Leasing, Brokerage, Timeshare

K) Real Estate Law

L) Real Estate Litigation

M) Real Estate Finance or Investment

N) Appraisal Computer Applications

O) Real Estate Securities and Syndications

P) Real Property Exchange

Q) Other topics deemed appropriate by the Committee/Director

5) The Committee/Director shall not approve:

A) Motivation courses or seminars

B) Courses that focus instruction to increase appraiser income

C) Courses or seminars that focus on the recruitment of employees or clients

D) Courses or seminars with instructional material relative to associations

E) Courses or seminars with instructional material relative to passing the State's appraiser examination

F) Having less than three classroom hours of instruction exclusive of examination (if any)

G) A course for more than 20 hours CE credit

6) Subsequent to approval of any CE course, revisions in course content and/or course material shall be submitted for re-evaluation and re-approval. Failure to report course changes may result in revocation of the CE course license. The fee for re-approval shall be in accordance with Section 1455.305.

7) Approval (license) for CE courses shall expire on March 31 of even numbered years until March 31, 1998. Beginning April 1, 1998, approval (license) for CE courses shall expire on September 30 of odd numbered years. The provider or sub-provider may renew the approval (license) by completing a renewal application and paying the renewal fee, in accordance with Sections 1455.300 and 1455.305 of this Part. The approval (license) fee or renewal fee for CE courses expiring on September 30, 1999 shall be 18/24ths of the approval (license) fee or renewal fee as provided in Section 1455.305 of this Part.

e) Audits and Inspections. OBRE may conduct on site inspections of the course provider's (or sub-provider's) place of business and may audit any session of any course approved for pre-licensure or CE credit.

1) At the request of the Director, a course provider shall provide a list of all courses that the provider is planning to offer within a 6 month period subsequent to the request. The list shall include the name and license number of each course, as well as the date, time and location of each presentation.

2) In the event of a course audit, the provider shall provide OBRE representative, at no cost, any and all course materials used in

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

the presentation of the course being audited.

- 3) The Director, a member of the Director's staff, an Appraisal committee member or other designated OBRE employee may inspect the business office of any course provider (or sub-provider) during normal business hours.

## f) Withdrawal of Approval

- 1) OBRE, upon recommendation of the Real Estate Appraisal Committee, shall withdraw, suspend or place on probation in accordance with 68 Ill. Adm. Code 1110 the approval of the real estate appraiser education provider when the quality of the program fails to continue to meet the established criteria of an approved provider as set out in this Section or upon determination that the decision to approve the program was based upon false or deceptive information.

- 2) The provider's license will terminate immediately upon the failure to renew. Course licenses will terminate upon the expiration date or immediately upon the termination of the provider's license. The provider may thereafter reapply for approval as an appraiser education provider and for course approval. (Source: Amended at 21 Ill. Reg. 1685, effective January 27, 1997)

**Section 1455.205 Appraiser Continuing Education (CE)****EMERGENCY**

- a) State Licensed, Certified Residential or Certified General Real Estate Appraisers shall obtain, during the pre-renewal period, a minimum of 20 hours of continuing education (CE) by attending Office (OBRE) licensed CE appraiser courses or OBRE approved pre-licensing appraiser courses.

- 1) Only one-time credit will be awarded for repetitious course work (i.e., credit will be given only once for a course attended more than once during the same pre-renewal period).

- 2) A minimum of 7 hours of continuing education pertaining to USPAP shall be completed during 3 pre-renewal periods.

- 3) A pre-renewal period is the 24 months preceding September 30 in the year or the renewal; except for the first pre-renewal period which shall be June 1, 1993, through September 30, 1995.

- 4) CE credit will be awarded to appraisers attending a course with an examination, even though the appraiser did not participate in the examination or did not successfully complete the examination.

- 5) An applicant for renewal is not required to meet CE requirements for a license or certification issued less than 24 months prior to its expiration.

- 6) Real estate appraisers licensed or certified in Illinois but residing in another state or jurisdiction shall comply with the CE requirements set forth in this Section.

- 7) In lieu of meeting the CE requirement by attending OBRE approved

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

courses, all or any part of the CE requirement may be satisfied by:

- A) Teaching courses approved by the Committee/OBRE for CE credit. The instructor will be awarded CE credit for the number of hours for which the course is approved for CE.

- i) CE credit will be awarded only once for a course. Credit is only applicable to the renewal following the pre-renewal period in which the course was taught.

- ii) Upon audit, the renewal applicant must provide course documentation from the course provider indicating the course name, Illinois license number, dates and location that the applicant served as an instructor, or any other documentation requested by OBRE in the course of the audit.

- B) Participating in the development of a course(s) approved by OBRE upon recommendation of the Committee for CE credit.

- i) CE credit will be awarded only once for development of a course. Credit is only applicable to the renewal following the pre-renewal period in which the course was developed.

- ii) Upon audit, an applicant shall provide proof of participation in the development of a course. Proof shall be in the form of certification from the course provider as to the course name and the degree of the applicant's participation in development, or any other documentation requested by OBRE in the course of the audit.

- b) Certification of Compliance with CE Requirements

- 1) With application for renewal (of any appraiser license/certification, issued 24 months or more prior to its expiration), the applicant shall certify full compliance with the CE requirements set forth in subsection (a) of this Section. The certification shall be on forms provided by OBRE that will include spaces for listing course names, the dates of attendance, the classroom hours, the provider's name, the Illinois CE course license number or any other information which OBRE requests. In addition, the certification shall contain a statement that the renewal applicant was in attendance for a minimum of 90% of the course and the he/she understands discipline consequences of providing false CE information. The renewal application may require other information to be provided by the applicant to enable proper administration of Article 2 of the Act.

- 2) The license/certification of an applicant not submitting a CE certification of full CE compliance will not be renewed.

- c) Audits and Inspections

- 1) OBRE may audit CE certifications received from renewal applicants.

- 2) OBRE will conduct random audits of certifications submitted by

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

appraiser applicants. When audited, the applicant shall submit documentation of attendance at CE courses such as certification letters, transcripts and Uniform Request for Continuing Education Credit, from the course provider (or sub-provider) or any other documentation requested by OBRE. Such documentation shall be submitted within 30 days of OBRE's request.

### Section 1455.210 Fees - Education Providers/Courses (Repealed) EMERGENCY

## SUBPART C: GENERAL

### Section 1455.300 Renewals EMERGENCY

a) Every license or certificate issued under the Act as a State Licensed Real Estate Appraiser, Certified Residential Real Estate Appraiser or Certified General Real Estate Appraiser shall expire on September 30 of each odd-numbered year, except as provided in Section 1455.80(a). The holder of a license or certification may renew the license or certification during the month preceding the expiration date by paying the required fee specified in Section 1455.305 of this Part.

1) In order to renew a license or certification in 1995, and thereafter, an applicant will be required to comply with the continuing education requirements pursuant to Section 36.17 of the Act and Section 1455.205 of this Part.

2) A license with the title of State Licensed Real Estate Appraiser may be renewed by providing evidence of completion of experience as required by Section 1455.20(b), evidence of 20 hours CE course work and payment of renewal fees set forth in Section 1455.305 of this Part. For a license expired between 2 years and 3 years, a renewal applicant shall complete the 20 hours of CE after the expiration date on the license.

3) An expired license for Certified Residential or General Real Estate Appraiser may be renewed by payment of renewal fees set forth in Section 1455.305 of this Part and evidence of completion of 20 hours of CE coursework. For a license expired between 2 years and 3 years, a renewal applicant shall complete 20 hours of CE after the expiration date on the license.

4) A license or certificate for State Licensed, Certified Residential or Certified General Real Estate Appraiser expired for more than 3 years will not be renewed. The appraiser may reapply for license or certification by meeting the licensure or certification requirements in effect at the time of application and by passing the appropriate State Appraiser Examination.

5) The holder of a license or certificate for State Licensed, Certified Residential or Certified General Appraiser that is expired for a period of less than 3 years may renew the license

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

or certificate in accordance with the provisions of this Section. Licensees may not reapply for licensure or certification in the same appraiser category until the certificate has been expired for 3 years.

b) Approved real estate appraiser education providers shall renew December 31 each year by paying the required fee set forth in Section 1455.305 of this Part. An appraiser education provider's license that has expired for more than 60 days may not be renewed. The provider may reapply for licensure in accordance with Section 1455.200.

c) Approved pre-license/certification courses will expire 3 years from the date of issue, or upon the expiration of the provider license (for which the course license is subordinate), and may be renewed by renewal application and payment of fees, in accordance with Sections 1455.200 and 1455.305, 60 days prior to expiration.

1) The renewal application shall include a confirmation of the provider's original certification and a certification that the course is essentially the same course as previously approved. In addition to the application, the applicant must explain any course revisions in detail, submit a listing of texts and other materials used in the course as well as the current final examination, and submit the current course outline, which shall contain a time schedule for topic presentation.

2) Applications received 366 days or more after the expiration date shall not be renewed. The applicant may submit a new application for approval of the pre-license/certification course under a different course title.

d) Approved appraisal CE courses will expire on March 31 of even numbered years until March 31, 1998 and may be renewed by renewal application and payment of fees, in accordance with Sections 1455.200 and 1455.305, 60 days prior to expiration. Beginning April 1, 1998, approved appraisal CE courses will expire on September 30 of odd numbered years and may be renewed by renewal application and payment of fees, in accordance with Sections 1455.200 and 1455.305, 60 days prior to expiration.

1) The renewal application shall include a confirmation of the provider's original certification and a certification that the course is essentially the same course as previously approved. In addition to the application, the applicant must explain any course revisions in detail, submit a listing of texts and other materials used in the course, and submit the current course outline, which shall contain a time schedule for topic presentation.

2) Any application for CE course renewal received 366 days or more after the expiration date shall not be renewed. The applicant may submit a new application for approval of the course under a different course title.

3) A course meeting the requirements of a pre-license/certification



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

course as set forth in Section 1455.200(c)(1) through (5) will be denied licensure as a CE course; however, such course may be approved by application for approval as a pre-license/certification course and payment of the appropriate fee.

e) It is the responsibility of each individual holding certification or licensure to notify the Office (OBRE) of any change of address. Failure to receive a renewal form from OBRE shall not constitute an excuse for failure to pay the renewal fee and to renew the certification in a timely manner.

f) A certificate for State Licensed Real Estate Appraiser will not be renewed until OBRE has received documentation of 500 hours of experience in accordance with Section 1455.20(b). To expedite processing, the documentation may be submitted with the original application for licensure or as soon as the experience is met; otherwise, it shall be submitted with the renewal application.

**Section 1455.305 Fees****EMERGENCY****a) Appraiser Application Fees**

1) The application fee for licensure as a State licensed real estate appraiser (whether by examination, examination acceptance, or reciprocity) is \$175, effective December 1, 1995.

2) The application fee for licensure as a Certified General or Certified Residential Real Estate Appraiser (whether by examination, examination acceptance, or reciprocity) is \$175, effective December 1, 1995.

3) The initial registry fee for original permanent licensure/certification as an appraiser is \$75, effective December 1, 1995.

4) The fee for each temporary practice permit, in accordance with Section 1455.70, is \$100, effective December 1, 1995.

5) The fee for extension of a temporary practice permit, in accordance with Section 1455.70, is \$100, effective December 1, 1995.

**b) Appraiser Renewal Fees**

1) The fee for renewal of an active appraiser license or certification is \$450, effective December 1, 1995.

2) The fee for renewing an expired license or certification is \$550, effective December 1, 1995.

**c) Application/Renewal Fees for Appraiser Education Providers**

1) The fee for application as a real estate appraiser education provider shall be \$1000, plus necessary course approval fees as set forth in subsection (d) below.

2) The fee for renewal as an approved real estate appraiser education provider shall be \$500 per year.

3) The fee to renew an appraiser education provider license that has

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

been expired for less than 61 days shall be \$600.

d) Application/Renewal Fees for Pre-license/Certification and CE Course Approval

1) The application fee for approval of a pre-license/certification appraisal course shall be \$500.

A) The fee for renewal of a pre-license/certification appraisal course shall be \$250.

B) The fee for renewal of a pre-license/certification appraisal course that has been expired for less than 366 days shall be \$350.

2) The application fee for CE course approval shall be \$300.

A) The fee for renewal of an approved CE course shall be \$150.

B) The renewal fee for an approved CE course that has been expired for less than 366 days shall be \$250.

3) The fee for evaluation of revisions to approved courses shall be \$200 for pre-license/certification courses and \$75 for CE courses.

**e) General**

1) All fees paid pursuant to the Act and this Section are non-refundable.

2) Applicants for examination and reexamination for appraiser certification and licensing shall pay a fee covering the cost of providing such examination. If a designated testing service is utilized for the examination, such fee shall be paid directly to the designated testing service.

3) The fee for certification of a registrant's record (e.g., license status, examination information, discipline, etc.) is \$25.

4) There is no fee for license/certification verification.

5) The fee for issuance of a duplicate license or certification or replacement of a lost license or certification is \$25.

6) The fee for a license or certification with name and/or address change (other than name and/or address change at renewal) is \$25.

7) The fee for a decorative wall certificate is the actual cost of the certificate which shall include shipping and handling costs.

8) The fee for a roster of persons licensed under the Act is the cost of producing the roster including shipping and handling costs.

9) The fee for requesting a waiver of the real estate appraiser experience requirement pursuant to Section 36.11 of the Act shall be \$25.

10) The fee for furnishing a record of proceedings under Section 36.20 of the Act is \$1 per page of the record.

11) National Registry fees payable to the Appraisal Subcommittee pursuant to federal regulations and laws shall be paid by Office the (OBRE) from funds appropriated by the General Assembly from the Appraisal Administration Fund.

**Section 1455.310 Granting Variances**

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY REPEALER

EMERGENCY

- a) The Commissioner may grant variances from these rules in individual cases where:
- 1) The provision from which the variance is granted is not statutorily mandated;
  - 2) No party will be injured by the granting of the variance; and
  - 3) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.
- b) The Commissioner shall notify the Real Estate Appraisal Committee in writing of the granting of a variance, and the reasons therefor.

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

- 1) Heading of the Part: Real Estate Appraiser Certification

- 2) Code Citation: 68 Ill. Adm. Code 1455

- 3) Section Numbers:

1455.10 New Section

1455.20 New Section

1455.30 New Section

1455.40 New Section

1455.50 New Section

1455.60 New Section

1455.70 New Section

1455.80 New Section

1455.90 New Section

1455.100 New Section

1455.110 New Section

1455.120 New Section

1455.130 New Section

1455.200 New Section

1455.210 New Section

1455.220 New Section

1455.230 New Section

1455.300 New Section

1455.310 New Section

1455.320 New Section

1455.400 New Section

1455.410 New Section

1455.420 New Section

1455.430 New Section

1455.440 New Section

1455.450 New Section

1455.460 New Section

1455.470 New Section

1455.480 New Section

1455.490 New Section

1455.500 New Section

1455.510 New Section

1455.520 New Section

1455.530 New Section

1455.540 New Section

1455.550 New Section

1455.560 New Section

1455.570 New Section

1455.580 New Section

1455.590 New Section

1455.600 New Section

1455.610 New Section

1455.620 New Section

Emergency Action:

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## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

1455-Appendix A New Section  
1455-Appendix B New Section

4) Statutory Authority: P.A. 90-571, effective July 1, 1998

5) Effective Date of Rules: July 1, 1998

6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not applicable

7) Date Filed in Agency's Principal Office: July 1, 1998

8) Reason for Emergency: Public Act 90-571, effective July 1, 1998, repeals the State's licensing for real estate appraisers (found in Article 2 of the Real Estate License Act of 1983 [225 ILCS 455/Art. 2]) and replaces it with a new licensing law, the Real Estate Appraiser Licensing Act (P.A. 90-571). Section 35(b) of the new Real Estate Appraiser Licensing Act provides that "the Office of Banks and Real Estate may, no later than 60 days after the effective date of the Act, adopt emergency rules pursuant to Section 5-45 of the Illinois Administrative Procedure for the implementation of this Act. For purposes of the Illinois Administrative Procedure Act, the adoption of initial rules shall be considered an emergency and necessary for the public interest, safety, and welfare." This emergency rulemaking constitutes those initial rules under the new Act.

9) A Complete Description of the Subjects and Issues Involved: The rulemaking implements the regulation of the real estate appraisal profession and requirements contained in the Real Estate Appraiser Licensing Act, P.A. 90-571, effective July 1, 1998, and to be consistent with the provisions of Title XI of the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989, Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), and the Illinois Human Rights Act.

10) Are there any proposed amendments to this Part pending? No

11) Statement of Statewide Policy Objectives: This rulemaking will not affect units of local government.

12) Information and questions regarding this amendment shall be directed to:

Bill Brown  
Office of Banks and Real Estate  
500 East Monroe, Suite 900  
Springfield, IL 62701  
(217) 782-3000

The full text of the Emergency Rules begins on the next page:

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

TITLE 68: PROFESSIONS AND OCCUPATIONS  
CHAPTER VIII: OFFICE OF BANKS AND REAL ESTATE

PART 1455

REAL ESTATE APPRAISER CERTIFICATION

## SUBPART A: RESIDENTIAL AND GENERAL CERTIFICATION

|           |   |
|-----------|---|
| Section   | Definitions   |
| 1455.10   | EMERGENCY   |
| 1455.20   | Uniform Standards of Professional Appraisal Practice/Supplemental Standards/Jurisdictional Exceptions   |
| EMERGENCY |   |
| 1455.30   | Education and Experience Requirements for State Licensed Real Estate Appraiser  |
| EMERGENCY |   |
| 1455.40   | Education Requirements for State Certified Residential and State Certified General Real Estate Appraiser                                      |
| EMERGENCY |   |
| 1455.50   | Experience Requirements for Certified Residential and Certified General Real Estate Appraiser   |
| EMERGENCY |   |
| 1455.60   | Application as a State Licensed Real Estate Appraiser, Certified Residential Real Estate Appraiser or Certified General Real Estate Appraiser |
| EMERGENCY |   |
| 1455.70   | Appraiser Examination   |
| EMERGENCY |   |
| 1455.80   | Nonresident Licensure/Reciprocity/Examination Acceptance/Temporary Practice   |
| EMERGENCY |   |
| 1455.90   | Change in Rank of Appraiser License   |
| EMERGENCY |   |
| 1455.100  | Appraiser Continuing Education (CE)   |
| EMERGENCY |   |
| 1455.110  | Appraiser License Renewals  |
| EMERGENCY |   |
| 1455.120  | Term of Licensure   |
| EMERGENCY |   |
| 1455.130  | Fees  |
| EMERGENCY |   |

## SUBPART B: APPRAISAL EDUCATION PROVIDERS/COURSES

Section  
1455.200 Appraisal Education Providers  
EMERGENCY



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

1455.210 Pre-Licensure Course Curricula  
EMERGENCY  
1455.220 Continuing Education Course Curricula  
EMERGENCY  
1455.230 Appraisal Course Providers/Courses, Enforcement Procedures  
EMERGENCY

## SUBPART C: APPRAISER ENFORCEMENT

Section  
1455.300 Appraiser Enforcement Procedures  
EMERGENCY  
1455.310 Informal Conferences  
EMERGENCY  
1455.320 Settlements  
EMERGENCY

## SUBPART D: HEARINGS

Section  
1455.400 Applicability  
EMERGENCY  
1455.410 Institution of a Contested Case by the Agency  
EMERGENCY  
1455.420 Institution of a Contested Case by Petitioner  
EMERGENCY

1455.430 Parties to Hearings  
EMERGENCY

1455.440 Joinder  
EMERGENCY

1455.450 Form of Papers  
EMERGENCY

1455.460 Service  
EMERGENCY

1455.470 Notice  
EMERGENCY

1455.480 Representation  
EMERGENCY

1455.490 Failure to Appear  
EMERGENCY

1455.500 Amendment, Withdrawal of Complaints and Petitions for Hearing  
EMERGENCY

1455.510 Requirement of an Answer  
EMERGENCY

1455.520 Discovery  
EMERGENCY

1455.530 Subpoenas  
EMERGENCY

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

1455.540 Prehearing Conference  
EMERGENCY  
1455.550 Hearings  
EMERGENCY  
1455.560 Administrative Law Judges  
EMERGENCY  
1455.570 Disqualification of an Administrative Law Judge  
EMERGENCY  
1455.580 Examination by the Board  
EMERGENCY  
1455.590 Burden of Proof  
EMERGENCY  
1455.600 Motions  
EMERGENCY  
1455.610 Continuances  
EMERGENCY  
1455.620 Evidence  
EMERGENCY  
1455.APPENDIX A Caption for a Case filed by the Agency  
EMERGENCY  
1455.APPENDIX B Caption for a Case filed by the Petitioner  
EMERGENCY

AUTHORITY: Implementing and authorized by the Real Estate Appraiser Licensing Act [P.A. 90-571, effective July 1, 1998].

SOURCE: Old Part repealed by emergency rulemaking at 22 Ill. Reg. 12979, effective July 1, 1998, for a maximum of 150 days; new Part adopted by emergency rulemaking at 22 Ill. Reg. 13011, effective July 1, 1998, for a maximum of 150 days.

## SUBPART A: RESIDENTIAL AND GENERAL CERTIFICATION

Section 1455.10 Definitions  
EMERGENCY

"Act" means the Real Estate Appraiser Licensing Act of 1998.

"Agency" means the Office of Banks and Real Estate.

"Appraisal" means an analysis, opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate, for or in expectation of compensation. An appraisal may be classified by purpose into either a valuation or an analysis. A "valuation" is an estimate of the value of real estate or real property. An "analysis" is a study of real estate or real property other than estimating value.

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

"Appraisal Assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in or aspects of identified real estate. "Appraisal assignment" includes valuation work and analysis work.

"Appraisal Consulting" is the act or process of providing information, analysis of real estate data and recommendations or conclusions on diversified problems in real estate, other than estimating value.

"Appraiser" or "Real Estate Appraiser" means a person who performs appraisals.

"Appraiser Qualifications Board" or "AOB" is a Board of the Appraisal Foundation established by Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 USC Chapter 34A).

"Appraisal Report" or "Report" means any communication, written or oral, of an appraisal, appraisal review, or consulting service that is transmitted to a client of a licensee.

"Appraisal Standards Board" or "ASB" is a Board of the Appraisal Foundation established by Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"Appraisal Subcommittee" or "ASC" means the Federal Appraisal Subcommittee established by Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"Client" is the party or parties who engages an appraiser (by employment or contract) in a specific assignment.

"Commissioner" means the Commissioner of Banks and Real Estate.

"Conference Panel" is one or two members of the Board and the Director, or his/her designee, who convene in an informal conference with a Respondent who has written allegations filed against him/her, where Respondent may speak on his/her own behalf regarding allegations that have been charged against his/her appraiser license, which may result in a recommendation of an offer of settlement of the charges.

"Director" means the Director of the Real Estate Appraisal Administration Division of the Office of Banks and Real Estate.

"Division" means the Real Estate Appraisal Administration Division of

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

the Office of Banks and Real Estate.

"Exam Acceptance" means the acceptance of an Appraiser Qualifications Board approved examination successfully completed in another state or jurisdiction and accepted as fulfilling the applicant's examination requirement in this State.

"Executive Conference" is a meeting between the Director and a Respondent who has written allegations filed against him/her, where Respondent may speak on his/her own behalf regarding allegations that have been charged against his/her appraiser license, which may result in a recommendation of an offer of settlement of the charges.

"Federal Financial Institutions Regulatory Agencies (FFIRA)" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision and the National Credit Union Administration.

"Federally Related Transaction" means any real estate related financial transaction that requires a licensed or certified real estate appraiser under federal law or regulation.

"Financial Institution" means a bank, savings bank, savings and loan association, credit union, mortgage broker, mortgage banker, licensee under the Consumer Installment Loan Act [205 ILCS 670] or the Sales Finance Agency Act [205 ILCS 660], or a corporate fiduciary, subsidiary, affiliate, parent company, or holding company of any such licensee.

"Hearings" means any hearing authorized to be held in the Division or before its Board or the Commissioner by the Real Estate Appraiser Licensing Act, and any amendment thereto.

"Informal Conference" is a meeting among one or two members of the Board and the Director, or his/her designee, and a Respondent who has written allegations filed against him/her, where Respondent may speak on his/her own behalf regarding allegations that have been charged against his/her appraiser license, which may result in a recommendation of an offer of settlement of the charges.

"Informational Conference" is a meeting between the Director, or his/her designee, and a registrant with allegations filed against him/her, where the Director, or his/her designee, may question the Respondent in search of information and facts relative to the allegations.

"Mass Appraisal" is defined as the process of valuing a universe of

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

properties as of a given date, utilizing standard methodology, employing common data and allowing for statistical testing and developed and reported in compliance with the USPAP Provisions and Standard 6.

"OBRE" or "Office" means the Office of Banks and Real Estate.

"Petitioner" is a party who by written petition or application seeks relief or licensure under any provision of applicable statutes of the State of Illinois or any rule, regulation, order or determination of the Division or Agency related to the Real Estate Appraisal profession.

"Pre-Renewal Period" is the time period between October 1 of any odd numbered year and September 30 of the subsequent odd numbered year. The pre-renewal period, for expired licenses, extends past September 30 of an odd numbered year to the date of application for renewal; however, the pre-renewal period may not extend past September 30 of the subsequent even numbered year.

"Rank" means the ranks of appraiser licensure, State Licensed, Certified Residential and Certified General.

"Real Estate" means an identified parcel or tract of land, including improvements, if any.

"Real Estate Appraisal Board" or "Board" means the Real Estate Appraisal Board established in the Act.

"Real Estate Related Financial Transaction" means any transaction involving: the sale, lease, purchase, investment in property or exchange of real property, or the financing of the real property; the refinancing of real property or interests in real property; or the use of real property or interests in property as security for a loan or investment, including but not limited to mortgage-backed securities.

"Real Property" means the interests, benefits and rights inherent in the ownership of real estate.

"Reciprocity" is acceptance of experience and education qualifications for licensure in this State which have been accepted as the basis for licensure in a registrant's domicile state or jurisdiction. Licensure by reciprocity is only applicable when a reciprocity agreement exists between this State and another appraiser regulation jurisdiction.

"Registrant" or "Registered" refers to all ranks of appraisers registered with OBRE.

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

"Respondent" is a person, firm, association or corporation against whom a complaint or petition is filed or to whom an order or complaint is directed by the Agency initiating a proceeding.

"State Certified Residential Real Estate Appraiser" or "Certified Residential" means a real estate appraiser who holds: a license issued for that rank under Article 2 of the Real Estate License Act of 1983 before the effective date of the Act, a license issued under the Act upon application for examination received by OBRE before the effective date of the Act but issued after that date, or a license issued for that rank under the Act.

"State Certified General Real Estate Appraiser" or "Certified General" means a real estate appraiser who holds: a license issued for that rank under Article 2 of the Real Estate License Act of 1983 before the effective date of the Act, a license issued under the Act upon application for examination received by OBRE before the effective date of the Act but issued after that date, or a license issued for that rank under the Act.

"State Licensed Real Estate Appraiser" or "State Licensed" means a real estate appraiser who holds: an active license issued for that rank under Article 2 of the Real Estate License Act of 1983 before the effective date of the Act, a license issued under the Act upon application for examination received by OBRE before the effective date of the Act but issued after that date, or a license issued for that rank under the Act.

"Uniform Standards of Professional Appraisal Practice" or "USPAP" means the Provisions and Standards of professional appraisal practice as promulgated by the Appraisal Standards Board of the Appraisal Foundation.

# Section 1455.20 Uniform Standards of Professional Appraisal Practice/Supplemental Standards/Jurisdictional Exceptions EMERGENCY

a) In addition to standards cited in Section 90 of the Act, the Uniform Standards of Professional Appraisal Practice (USPAP) as published by the Appraisal Standards Board in accordance with Section 110 of the Act, are adopted by reference.

b) Additional supplemental standards may be adopted by OBRE as recommended by the Board and, if adopted, shall become a part of this Section.

1) A registrant whose appraiser license, in any rank, is suspended by the provisions of the Act, and/or this part, may not practice the business of real estate appraisal during the suspension period. Participation in the development and/or reporting of



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

appraisals, appraisal reviews or appraisal consulting as a registered or nonregistered appraiser during the suspension period shall be sufficient grounds for OBRE to revoke, or otherwise discipline the registrant's active or inactive license.

- 2) A registrant whose appraiser license, in any rank, is placed on probation under the provisions of the Act, and/or this Part, shall include in the certification of all appraisal reports a statement that, "this license (number and State rank) has been placed on probation by OBRE until (date probation terminates)".
- 3) An appraiser registered with OBRE, under the Act, shall reject solicitation for appraisal work which suggests contingent fees. A fee for appraisal services that is increased, decreased or void based upon the closing of a loan is a form of contingent fees.

- c) Real Estate Appraisers registered with OBRE under the Act shall practice in accordance with USPAP standards except:

- 1) where the standard(s) is contrary to Illinois Law or public policy (USPAP, Jurisdictional Exception); or
- 2) where supplemental standards have been recommended by the Real Estate Appraisal Board, adopted by OBRE and incorporated by rule as part of this Section. Any such supplemental standard(s) shall not diminish the purpose, intent or content of the requirements of the USPAP.

- d) A copy of the USPAP is available for inspection in OBRE and may be purchased, if available, at cost from the Office of Banks and Real Estate, Division of Real Estate Appraisal Administration, 500 East Monroe Street, Suite 500, Springfield, IL 62701 or from the Appraisal Standards Board, 1029 Vermont Avenue, N.W., Suite 900, Washington, D.C., 20005-3517.

#### Section 1455.30 Education and Experience Requirements for State Licensed Real Estate Appraiser

##### EMERGENCY

- a) Education. An applicant for State Licensed Real Estate Appraiser shall have earned a high school diploma or its equivalent (GED) and shall have completed 75 hours of appraisal course work in three specific curricula that is mandatory.

- 1) The specific 3 curricula are:

- A) Standards of Professional Appraisal Practice--15 hours (IL-I);
- B) Basic Principles of Appraisal--30 hours (IL-II); and
- C) Single Family Appraisal/Residential Valuation Procedures--30 hours (IL-III).

- 2) Credit will be awarded only from courses licensed by OBRE and presented by course providers licensed by OBRE. Successful completion is attendance of a minimum of 90% of all classroom instruction and passing the course examination.

- b) Experience. Experience credit is not required for an applicant to sit

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

for examination or for licensure; but, 500 hours of appraisal experience is required for the first and second renewals of a license following an original issue date of 24 months or longer.

- 1) Documentation of the 500 hours of experience for each of the two reporting periods shall be submitted on forms provided by OBRE as described in Section 1455.60 of this Part:

- A) Experience documentation supporting 500 hours or 1,000 hours may be submitted with the application for examination or at any time between the date of license issuance and the first renewal after the original license has been issued for a period of 24 months or longer.

- B) If during the first reporting period the registrant did not submit documentation of 1,000 hours of experience, the second experience report shall document 500 hours of experience that was obtained from appraisal work occurring subsequent to the renewal which required the first 500 hours.

- 2) Only those appraisal reports that are in compliance with the USPAP provisions and Standards are creditable as experience.

- 3) Real estate sales and brokerage experience shall be accepted if the experience is directly related to performing or reviewing appraisals, in compliance with the USPAP Provisions and Standards 1 and 2, or 3, or 4 and 5.

- A) Salespersons and brokers who hold an active license, issued by OBRE, at the date of application for appraiser licensure, and which license has been active and in good standing for 5 of the preceding 7 years, will be granted 40% of the experience requirement.

- B) OBRE may require a fee to verify the active and good standing status of the license.

- 4) Mass appraisal experience is not acceptable experience for this appraiser rank.

- 5) A license may be renewed based upon the applicant's certification that an appraisal log is true, accurate and contains listings of reports meeting the USPAP Provisions and Standards. If, after the renewal license is issued, it is determined, by experience audit or other investigation, that the experience is not true, accurate and/or in compliance with the USPAP provisions and Standards, such determination shall be grounds to revoke or otherwise discipline the renewed license or up-ranks to the license.

- 6) The experience requirement may be waived (or deferred) by the Commissioner, upon recommendation of the Board, in accordance with Section 60 (g) of the Act.

#### Section 1455.40 Education Requirements for State Certified Residential and State Certified General Real Estate Appraiser

##### EMERGENCY

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

- a) An applicant for certification as a Certified Residential or Certified General Real Estate Appraiser shall have earned a high school diploma or its equivalent (GED) and shall have completed a course of study in appraisal curricula as set forth in subsections (b), (c) and (d) of this Section.
- b) A total of 120 hours of education are required for Certified Residential Real Estate Appraiser, and 180 hours of education are required for Certified General Real Estate Appraiser.
- 1) For Certified Residential Real Estate Appraiser, the following specific hour requirement is mandatory:
- A) Standards of Professional Appraisal Practice--15 hours (IL-I);
  - B) Basic Principles of Appraisal--30 hours (IL-II);
  - C) Valuation Procedures for Residential Property--30 hours (IL-III);
  - D) Valuation Procedures for Nonresidential Property--30 hours (IL-IV); and
  - E) Residential Report Writing--15 hours (IL-VI).
- 2) For Certified General Real Estate Appraiser, the following specific hour requirement is mandatory:
- A) Standards of Professional Practice--15 hours (IL-I);
  - B) Basic Principles of Appraisal--30 hours (IL-II);
  - C) Valuation Procedures for Residential Property--30 hours (IL-III);
  - D) Valuation Procedures for Nonresidential Property--30 hours (IL-IV);
  - E) Income Capitalization Approach--30 hours (IL-V);
  - F) Non-residential Report Writing--15 hours (IL-VII); and
  - G) Elective Courses -- 30 hours (IL-E).
- c) Credit will only be awarded for courses licensed by OBRE and presented by course providers licensed by OBRE. Successful completion is attendance of a minimum of 90% of all classroom instruction and passing the course examination.
- d) Education credit may be earned by teaching courses licensed by OBRE Real Estate Appraisal Administration and presented through an OBRE licensed provider. To obtain education credit for teaching, the applicant shall provide verification from the education provider of the date, place of presentation and the course name and license number.
- 1) One hour of education credit for every one hour of classroom instruction shall be awarded.
  - 2) Education credit for teaching shall be awarded for only one presentation from each curriculum (IL-I through IL-VII) and for one presentation of each different course in IL-E curriculum.

Section 1455.50 Experience Requirements for Certified Residential and Certified General Real Estate Appraiser  
EMERGENCY

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

- a) To be eligible to sit for the appraisal examination for State Certified Residential Real Estate Appraiser, an applicant must submit proof of 2,500 hours of appraisal experience that has occurred over a minimum of two calendar years, and the applicant for State Certified General Real Estate Appraiser must submit proof of 3,000 hours experience that has occurred over a minimum of two calendar years. Experience requirements pertain to both time and hours; therefore, a maximum of 50% of the experience will be credited for appraisal work conducted during any calendar year.
- b) Approved experience may include fee appraisal, staff appraisal, mass appraisal, ad valorem tax appraisal, mass ad valorem appraisal, review appraisal or appraisal analysis, highest and best use analysis, feasibility analysis or study, real estate sales and brokerage, real estate counseling and real property management. Only appraisal work that is in compliance with the USPAP Provisions and Standards is creditable experience.
- c) For Certified Residential, a minimum of 50% (1,250 hours) of the requirement must be experience relating to residential property. For Certified General, a minimum of 50% (1,500 hours) of the requirement must be experience relating to nonresidential property. Hours shall be awarded for various types of appraisal as follows:
- 1) Experience for Residential Type Reports:
    - A) 5 hours -- Vacant building site for residential property of less than 5 units; and
    - B) 15 hours -- Residential property with improvements of less than 5 living units.
  - 2) Experience for Non-Residential Type Reports:
    - A) 30 hours -- Vacant building site for non-residential property (including multi-family residential with highest and best use of more than 4 units);
    - B) 40 hours -- Improved commercial, industrial, office property with less than 10,000 SF and apartment property of 5-24 units;
    - C) 50 hours -- Improved commercial, industrial, office property with more than 10,000 SF and apartment property with more than 24 units;
    - D) 40 hours for vacant operating agriculture property; and
    - E) 50 hours for improved operating agriculture property.
  - 3) Appraisal type is determined by highest and best use as indicated in the appraisal report.
- d) Real estate sales and brokerage experience shall be accepted if:
- 1) Salespersons and brokers who hold an active license, issued by OBRE, at the date of application for appraiser licensure renewal, and, which license is and has been active and in good standing for 5 of the preceding 7 years, will be granted 40% of the experience requirement. OBRE may require a fee to verify the active and good standing status over the past 7 years.
  - 2) The balance of experience (60%) must be reported to the Agency in



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

accordance with Section 1455.60 (b)(2)(A) of this Part; and, the experience is directly related to performing or reviewing appraisals, in compliance with the USPAP Provisions and Standards 1 and 2, or 3, or 4 and 5.

- e) Real Estate Counseling experience shall be awarded if it is in compliance with the USPAP Provisions and Standards 4 and 5.
- f) Real Property Management experience shall be accepted if the experience is directly related to performing or reviewing appraisals, in compliance with the USPAP Provisions and Standards 1 and 2, or 3, or 4 and 5.

- g) Experience for mass appraisal, ad valorem tax appraisal and mass ad valorem appraisal shall be documented by the applicant's affidavit detailing the experience credit being requested, and shall be certified by the assessment official in accordance with Section 60 (b) of the Act. Acceptable experience includes:

- 1) experience through the cost, income and market sale appraisal techniques must be in compliance with the USPAP provisions and Standards 1 and 2;
  - 2) experience through model development and calibration in relation to mass ad valorem tax assessments must be in compliance with the USPAP Provisions and Standard 6;
  - 3) experience through the review and analysis of appraisals employing the cost, income and market sale techniques must be in compliance with the USPAP Provisions and Standard 3.
- A) OBRE may require samples of the requested experience to corroborate the experience and its compliance to the USPAP provisions and Standards.
  - B) The Director may seek the recommendation of the Board as to the validity of the experience.

**Section 1455.60 Application as a State Licensed Real Estate Appraiser, Certified Residential Real Estate Appraiser or Certified General Real Estate Appraiser**  
**EMERGENCY**

- a) An applicant for examination as a real estate appraiser in any rank shall file an application with OBRE on forms provided by OBRE. The application shall expire one year from the date of submission, i.e., the applicant must have passed the examination and applied for licensure within one year after submission of the application for examination.
- b) The application shall include but not be limited to the following:
  - 1) Verification of education (i.e., transcripts, certificates of course completion, official records from provider);
  - A) a certification that the applicant is a high school graduate or equivalent. Proof of education may be required by post audit of the application; and
  - B) proof of successful completion (transcripts, course

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

completion certificates, official school records, etc.) of the appraisal education required by Sections 1455.30 and 1455.40 of this Part.

- 2) Verification of experience. All experience for the Certified Residential and Certified General Real Estate Appraisers shall meet the requirements as set forth in Section 1455.50 of this Part.

- A) In accordance with Section 60 (a) of the Act, the applicant shall submit an appraisal log which shall include an address or location of the property; date of the appraisal report; property type; size of the property improvements including land area; the tally of the hours being requested by the applicant; a certifying statement that the applicant's signature appears on a certificate of appraisal which was transmitted with the appraisal report; and a certifying statement that the appraisal work listed will be available for OBRE audit for a period of five years from the date of the application.

- B) An applicant seeking credit for mass appraisal experience shall include with the application his/her affidavit as prescribed in Section 60 (b) of the Act. The affidavit shall detail the experience being requested by the applicant and provide the following minimum information:
  - i) the boundaries of the mass ad valorem tax appraisal/assessment project;
  - ii) the number of parcels included in the mass ad valorem appraisal/assessment project;
  - iii) the types of property (residential, commercial, industrial) included in the project and the percentage ratio of each type;
  - iv) the time period in which the mass ad valorem tax appraisal/assessment took place (the mass appraisal process);
  - v) the number and type (residential or nonresidential) of properties valued (the analysis and establishment of values) through the cost, income and market sale appraisal techniques (the appraisal process);
  - vi) the number and type (residential or nonresidential) of reviews and analyses of appraisals employing the cost, income and market sale appraisal techniques (the review appraisal process);
  - vii) the specific address where records pertaining to such mass ad valorem tax appraisals/assessments, ad valorem appraisals or appraisal reviews are filed; and
  - viii) a certification, in accordance with Section 60 (b) of the Act.
- C) An applicant seeking 40% of the experience requirement, as provided by Section 60 (c) of the Act, for experience



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

attained as an Illinois real estate salesperson or broker licensee shall:

- i) request the 40% credit on forms provided by OBRE upon which the applicant shall certify that he/she has maintained an active, good standing Illinois real estate salespersons or brokers license for 5 of the 7 years preceding the date of application for real estate appraiser;
  - ii) disclose the real estate sales or brokers license number(s) and date(s) of issuance;
  - iii) log the balance of the experience (60%) as prescribed in subsection (b)(2)(A) of this Section; and
  - iv) attach a check (license verification fee) in the amount indicated in Section 1455.130 of this Part as the cost to verify the license(s) and status.
- 3) The required application fees provided for in Section 1455.130 of this Part are not refundable.
- 4) Certification from the state or territory of the United States or the foreign country in which the applicant was originally licensed as a real estate appraiser and any jurisdiction in which the applicant is currently licensed as a real estate appraiser, if applicable, stating:

- A) the time during which the applicant was licensed; and
- B) whether the file of the applicant contains any record of any disciplinary actions taken or pending.

- c) When the accuracy of any submitted documentation or the relevance or sufficiency of the documentation, including, but not limited to, course work or experience is questioned by OBRE, or if there is a lack of information, discrepancies, or conflicts in information, or a need for clarification, the applicant seeking licensure shall:

- 1) provide such information as may be necessary;
- 2) appear for an interview before the Board or the Director to explain such relevance or sufficiency, clarify information, clear up any discrepancies or conflicts in information, failure to provide such information, clarification, etc. shall be sufficient grounds to deny the license application.

- d) Upon receipt of the application and all supporting documentation, the applicant's file will be evaluated by OBRE. The applicant will be notified in writing of approval to sit for the examination or the reasons the application has been deferred or denied.
- e) After successful completion of the appropriate examination, an applicant for issuance of a certificate as an appraiser in any rank shall attest, by his/her signature, to the certifications on forms provided by OBRE and shall attach the initial registry fee as indicated in Section 1455.130 of this Part. The fee is not refundable.

## Section 1455.70 Appraiser Examination

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

## EMERGENCY

- a) To be eligible for licensure in any appraiser rank, the applicant must pass an examination administered by OBRE or its designated testing service. The examination will cover the content of the National Uniform Examination and be approved by the Appraiser Qualifications Board.
- b) The passing score on the examination shall be a cut score of 75.
- c) OBRE shall accept the examination results of an Illinois appraisal candidate who has passed the examination for certification or licensure in another jurisdiction under the following conditions:
  - 1) The examination has been approved by the Appraiser Qualifications Board.
  - 2) The examination taken in another jurisdiction can only be applied toward an Illinois equivalent appraisal rank. If there is no equivalent rank, the examination would not be accepted.
  - 3) The applicant must provide an official test score report from the testing entity, or a certification by the jurisdiction where the applicant sat for the examination and was subsequently licensed.
    - i) The applicant is responsible for obtaining the score report from the testing entity or jurisdiction and paying fees to obtain the report, or for securing a certification from another jurisdiction and paying any fees required.
    - ii) OBRE will not accept or apply the test results until such time as the applicant is notified of having met all other requirements for licensure or certification in Illinois.
    - iii) OBRE will not issue a license or certificate until all required fees are paid in full.

Section 1455.80 Nonresident Licensure/Reciprocity/Examination Acceptance/  
Temporary Practice

## EMERGENCY

- a) A nonresident may be licensed, by an examination process under the Act, upon complying with all the provisions, conditions and requirements for licensure in this State and upon payment of application and licensure fees.
- b) A nonresident may be licensed by reciprocity under the Act, upon complying with all the provisions of a reciprocity agreement between this State and any other appraiser regulation authority which is in compliance with the requirements of the FFIREA, Title XI, and upon payment of application and licensure fees.
  - 1) A reciprocity agreement between this State and other appraiser regulatory jurisdictions may be entered into upon the recommendation of the Board and the concurrence by the Commissioner.
  - 2) The Board shall not recommend such agreements with jurisdictions that do not have similar, equal or greater licensure

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

qualification requirements.

3) A reciprocal license becomes invalid when the licensee changes his/her residence to Illinois or any other state.

c) A nonresident may be licensed by examination acceptance under the Act, upon certification from the state or territory where the applicant passed the examination, and that the examination was approved by the Appraiser Qualifications Board.

1) The applicant shall be responsible for obtaining such certification including associated costs.

2) The examination must have been passed within seven years preceding the date of application by Reciprocity.

d) Every nonresident shall file with his/her application a supporting document form provided by OBRE, upon which each nonresident applicant shall disclose any and all information deemed necessary by the Director which shall include, but not be limited to, an irrevocable consent to legal service upon the Director, as provided in Section 70 (c) of the Act.

e) Any discipline, disciplinary proceeding, or unresolved complaint against an out-of-state applicant for licensure in this State shall be sufficient grounds for the Commissioner to deny license to such applicant in this State.

f) Nonresident Temporary Practice. A nonresident who holds an active appraiser license, in good standing in another jurisdiction, may apply to OBRE and receive a temporary practice permit to appraise real property in this State. The information submitted on the application shall include, but not be limited to, the following:

1) the applicant's name, address, social security number, and any other such information as might be necessary to identify the applicant;

2) a certification from the agency in the applicant's home state, certifying that the applicant is a duly licensed real estate appraiser, in good standing, the rank of licensure, and setting forth any discipline taken (or pending) by the agency against the applicant;

3) An estimate of the amount of time required to perform the appraisal assignments(s) and a description of the property(s) and their general location (city, county, etc.) to be appraised by the applicant;

4) An irrevocable consent that service of process in any action against the applicant that may arise from the applicant's Illinois appraisal activities may be made by delivery of process on the Director; and

5) Such other information as may be necessary to determine the applicant's eligibility for temporary appraisal privileges within the State of Illinois.

A) The temporary practice permit shall be for a period of 60 days from the date of issuance. The permit may not be renewed but may be extended for 30 days upon written request

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

and payment of an extension fee, at least 14 business days prior to the expiration of the original temporary practice permit.

B) Each applicant is limited to two temporary appraisal practice permits in any calendar year.

C) The permit shall be valid only for the properties and locations indicated on the application, and the appraisal of other properties or properties in other locations will be considered by OBRE as a false statement on an Agency application and sufficient cause to discipline the licensee.

D) Persons granted temporary appraisal practice permits shall not advertise, solicit or otherwise represent themselves as a State Licensed Real Estate Appraiser, Certified Residential Real Estate Appraiser or Certified General Real Estate Appraiser.

E) Applicants will be required to pay any fee required by the Federal government under FIFREA, Title XI.

### Section 1455.90 Change in Rank of Appraiser License EMERGENCY

An appraiser registered with OBRE may apply to change his/her license to a higher or lower rank by filing the appropriate application, meeting all license requirements, and paying all fees in effect at the time of application for the higher or lower rank. An appraiser may not hold an active license in more than one rank.

a) Upon the issuance of a license to an appraiser at a higher or lower rank, the term of the appraiser's previous license shall end.

b) Any actions by OBRE relating to allegations, complaints, investigations, prosecutions, discipline, supervision, or sanctions pursuant to the Act or this Part that apply to an individual holding an appraiser license shall continue to apply to the individual regardless of what rank of appraiser licensure the individual has held, is holding, or may hold in the future.

### Section 1455.100 Appraiser Continuing Education (CE) EMERGENCY

a) All State Licensed Real Estate Appraisers registered with OBRE under the Act shall obtain, during the pre-renewal period, a minimum of 20 hours of continuing education, and all State Certified Residential and General Real Estate Appraisers registered with OBRE under the Act shall obtain, during the pre-renewal period, a minimum of 28 hours of continuing education. The continuing education shall be earned by attending OBRE CE courses licensed in 4 different curricula (IL-CE-I through IL-CE-IV) as outlined in Section 1455.220 of this Part, or by attending OBRE approved pre-licensure appraiser courses.

1) Credit will not be awarded for repetitious course work (i.e.,

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

- credit will only be given once for a course attended more than once during the same pre-renewal period).
- 2) A minimum of 7 hours of CE pertaining to USPAP shall be completed prior to every third renewal of an appraiser license. OBRE may require certificates of completion for these courses at the renewal date for which they are due. These courses are listed on OBRE's course catalog under the IL-CE-III curriculum. Pre-licensure courses in the IL-I curriculum will also satisfy this requirement.
  - 3) A minimum of 3 hours of CE pertaining to Fair Housing/Fair Lending shall be completed prior to every third renewal of an appraiser license. OBRE may require a certificate of completion for this course at the renewal date for which it is due. These courses are listed on OBRE's course catalog under the IL-CE-IV curriculum.
  - 4) CE credit will be awarded to appraisers who attend a qualifying course in curricula IL-CE-I through IL-CE-IV regardless of whether they take or pass an examination given in connection with the course.
  - 5) An applicant for renewal is not required to meet CE requirements for a license issued less than 24 months prior to its expiration.
    - A) The 24 month period pertains to the original issue date of a license in any rank; e.g., a licensee who has changed rank is not exempt from CE because the change in rank occurred less than 24 months prior to September 30 of an odd numbered year.
    - B) A State Licensed Real Estate Appraiser, registered with OBRE applying for a rank change on or after July 1 of any odd numbered year, shall have obtained and must document 20 hours of CE prior to the issuance of the new license.
    - C) A Certified Residential or Certified General Real Estate Appraiser, registered with OBRE applying for a rank change on or after July 1 of any odd numbered year, shall have obtained and must document 28 hours of CE prior to the issuance of the new license.
  - 6) Real estate appraisers licensed in Illinois but residing in another state or jurisdiction shall comply with the CE requirements as set forth in this Section except where the license was issued by reciprocity and the reciprocity agreement provides for a different CE requirement; however, the nonresident registrant is not exempted from mandatory CE required by all Illinois appraiser registrants.
  - 7) In lieu of meeting the CE requirement by attending OBRE approved courses, all or any part of the CE requirement may be satisfied by:
    - A) teaching pre-licensure or CE courses licensed by OBRE and sponsored by a provider licensed by OBRE. The instructor will be awarded CE credit for the number of hours for which

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

the course is licensed. CE credit will be awarded for only one presentation of a course (repetitious course work is not acceptable). Credit is only applicable to the renewal following the pre-renewal period in which the course was taught; and

- B) participating in the development of a course(s) licensed by OBRE. CE credit will be awarded only once for development of a course. Credit is only applicable to the renewal following the pre-renewal period in which the course was developed.

- b) Successful CE course completion is a minimum of 90% attendance of all course instruction.

- 1) CE course providers must certify the CE to OBRE within 21 days after each course presentation and OBRE will credit the registrant's record.
- 2) Pre-licensure courses taken for CE credit must be submitted to OBRE by the registrant as soon as the course certificate is issued, and OBRE will credit the registrant's record. Otherwise, documentation of the CE credit must be attached to the renewal application.
- c) Real estate brokers and salespersons who are also registered as a real estate appraiser will be granted, by reciprocity, 25% of the CE hours required for the rank of license held at date of renewal, provided that:
  - 1) the broker or salesperson license was renewed during its preceding renewal period;
  - 2) the current broker or salesperson license is active and in good standing at the time of the appraiser license renewal;
  - 3) the renewal of the broker or salesperson license required a minimum of 12 hours of CE in the preceding renewal period;
  - 4) the appraiser renewal applicant requests the 7 hours CE credit and pays a fee as indicated in Section 1455.130 of this Part as the cost of verifying the broker or salesperson license status.

#### Section 1455.110 Appraiser License Renewals EMERGENCY

- a) Every appraiser license registered with OBRE shall, unless terminated earlier by provisions of this Part or the Act, expire on September 30 of each odd-numbered year. The holder of a license may renew the license or certification during the months of July, August and September preceding the expiration date by completing an application provided by OBRE, meeting all renewal requirements and paying the required fee specified in Section 1455.130 of this Part.
  - 1) On or after July 1 and before September 30 of odd numbered years OBRE will provide each appraiser registrant, by mail at his/her last known address, a renewal application. The application shall indicate the requirements for renewal and must be completed in



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

its entirety by the renewal applicant.

- A) The notice of renewal application is provided as a convenience to the registrant.
- B) The lack of notice of renewal application by OBRE shall not be grounds for the applicant to avoid penalties or disciplinary sanctions resulting from appraisal practice on a non-renewed license.

2) In order to renew an appraiser license, the renewal applicant will be required to comply with the CE requirements pursuant to Section 85 of the Act and Section 1455.100 of this Part.

- b) A license due to expire or which has been expired for less than one year, under the rank of State Licensed Real Estate Appraiser, may be renewed by providing evidence of completion of experience as required by Section 60(f) of the Act, evidence of 20 hours of CE course work, and by payment of renewal fees as set forth in Section 1455.130 of this Part.

1) A State Licensed Real Estate Appraiser license which has been expired for 2 to 3 years, may be renewed by meeting the experience provisions in Section 60 (f) of the Act, by evidence of 20 hours of CE, and by payment of the renewal fee and late penalty; however:

- A) 20 hours of CE must have been completed during the 24 months immediately preceding the date of renewal application; and
- B) any required experience must be from appraisal work occurring after any experience earlier reported.

2) A State Licensed Real Estate Appraiser license which has been expired for more than 3 years shall not be renewed. The licensee may reapply for licensure by meeting the qualifying criteria in effect at the date of application including re-examination.

- c) A license due to expire or which has been expired for less than one year under the ranks of State Certified Residential Real Estate Appraiser or State Certified General Real Estate Appraiser may be renewed by meeting the provisions of Section 1455.100 of this Part, and by paying the renewal fee and late penalty fee as prescribed in Section 1455.130 of this Part.

1) A licensee in the rank of State Certified Residential or State Certified General Real Estate Appraiser that has been expired for 2 to 3 years may be renewed by meeting the provisions of Section 1455.100 of this Part and payment of the renewal fee and late penalty; however, the required 28 hours of CE must have been completed during the 24 months immediately preceding the date of renewal application; and

2) A license as a State Certified Residential or State Certified General Real Estate Appraiser which has been expired for more than 3 years shall not be renewed. The licensee may reapply for licensure by meeting the qualifying criteria in effect at the date of application including re-examination.

- d) The holder of a license as a State Licensed, Certified Residential or

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

Certified General Appraiser that is expired for a period of less than 3 years may renew the license or certificate in accordance with the provisions of this Section; however, licensees may not reapply for licensure in the same appraiser rank as the expired license until the license has been expired for more than 3 years.

### Section 1455.120 Term of Licensure EMERGENCY

In accordance with Section 65 of the Act, the term of licensure for all appraiser ranks shall be from the date of issuance to September 30 of each odd numbered year.

- a) An appraiser license in any rank originally issued between July 1 and September 30 of each odd numbered year shall be valid past September 30 of that year and expire on the subsequent September 30 odd numbered year; i.e., the license will be valid for a period of 24 months to 27 months, unless earlier terminated by the provisions of the Act or this Part.

- b) An appraiser license that has expired, or which has been surrendered, suspended, or revoked, is considered inactive. An appraiser with an inactive appraiser license may continue to appraise real property; however, he/she may not represent himself/herself as an Illinois licensed appraiser in any rank. The inactive licensee is further prohibited from representing himself/herself as having been licensed in any rank as a real estate appraiser. Such representations constitute a violation of Sections 90 and 95 of the Act and a violation of the USPAP, Ethics Provision.

1) A complaint against an inactive licensed appraiser who has not represented himself/herself as a licensed appraiser in any rank is outside the authority of OBRE if the alleged violations occurred during a time when the licensee was inactive.

2) A complaint against an inactive licensed appraiser will be deferred if it is determined that the appraisal for which the complaint was filed was developed and reported by the inactive appraiser without reference to a State appraiser rank or number.

A) The inactive licensed appraiser's file will be flagged with an intent to investigate in the event that the registrant applies to renew the license, up-rank or down-rank the license or reapply for licensure in any rank.

B) At the time of such application for renewal, for change to higher or lower rank, or application for new licensure in any rank, OBRE shall defer the consideration of the application until an investigation can be completed. The renewal applicant will be notified of the deferment which shall not exceed 120 days. At that time, if the investigation indicates possible violations of the Act, OBRE, with a recommendation of a Board Conference Panel, may deny the application and notify the applicant of their

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

rights of due process.

### Section 1455.130 Fees EMERGENCY

- a) Appraiser Application Fees
  - 1) The application fee for licensure as a State Licensed Real Estate Appraiser (whether by examination, examination acceptance, or reciprocity) is \$175.
  - 2) The application fee for licensure as a Certified General or Certified Residential Real Estate Appraiser (whether by examination, examination acceptance, or reciprocity) is \$175.
  - 3) The initial registry application fee for all appraiser ranks is \$75.
  - 4) The fee for application for a temporary practice permit is \$100.
  - 5) The application fee for extension of a temporary practice permit is \$100.
- b) Appraiser Renewal Fees
  - 1) The fee for renewal of an active appraiser license is \$450.
  - 2) The fee for renewing an expired appraiser license is (\$450 renewal + \$100 late penalty) \$550.
- c) Application/Renewal Fees for Appraiser Education Providers
  - 1) The fee for application as a real estate appraiser education provider shall be \$1000, plus necessary course approval fees as set forth in subsection (d) below.
  - 2) The fee for renewal as an approved real estate appraiser education provider shall be \$500.
  - 3) The fee to renew an appraiser education provider license that has been expired for less than 61 days shall be \$600. After 61 days the license cannot be renewed, but the applicant can apply for a new license.
- d) Application/Renewal Fees for Pre-licensure Courses and CE Courses
  - 1) The application fee for a pre-licensure course license is \$500.
    - A) The fee for renewal of a pre-licensure appraisal course license is \$250.
    - B) The fee for renewal of a pre-licensure appraisal course that has been expired for less than 366 days is \$350. After 366 days the license cannot be renewed, but the applicant can apply for a new course license.
  - 2) The application fee for a CE course license is \$300.
    - A) The fee to renew a CE course license is \$150.
    - B) The renewal fee for a licensed CE course that has been expired for less than 366 days is \$250. After 366 days the license cannot be renewed, but the applicant can apply for a new course license.
  - 3) The fee for evaluation of revisions for licensed courses is \$200 for pre-licensure courses and \$75 for CE courses.
- e) General

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

- 1) All fees paid pursuant to the Act and this Section are non-refundable.
- 2) Applicants for examination and re-examination for appraiser licensing shall pay a fee covering the cost of providing such examination. If a designated testing service is utilized for the examination, such fee shall be paid directly to the designated testing service.
- 3) The fee for certification of a registrant's record (e.g., license status, examination information, discipline, etc.) is \$25.
- 4) There is no fee for license verification.
- 5) The fee for issuance of a duplicate license or certification or replacement of a lost license or certification is \$25.
- 6) The fee for a license with name and/or address change (other than name and/or address change at renewal) is \$25.
- 7) The fee for a decorative wall certificate is \$25.
- 8) The fee for a roster of persons licensed under the Act is \$40 for a registrant listing or \$55 for printed labels, which shall include the name, address, city, state, and zip code of each licensee.
- 9) The fee for requesting a waiver of the real estate appraiser experience requirement pursuant to Section 60(g) of the Act shall be \$25.
- 10) The fee for furnishing a record of proceedings is \$1 per page of the record.
- 11) National Registry fees payable to the Appraisal Subcommittee pursuant to federal regulations and laws shall be paid by OBRE from funds appropriated by the General Assembly from the Appraisal Administration Fund.
- 12) The fee to verify the existence and status of a brokers or salesperson license for granting reciprocal CE is \$20.
- 13) The fee to verify the existence and status of a brokers or salesperson license for granting experience for appraiser licensure is \$25.

## SUBPART B: APPRAISAL EDUCATION PROVIDERS/COURSES

### Section 1455.200 Appraisal Education Providers EMERGENCY

- a) An entity seeking licensure as an appraisal education provider shall submit an application, on forms provided by the Office (OBRE), upon which they must certify and promise that they now meet (and will maintain) the following minimum criteria:
  - 1) maintain a fixed office that is adequate for the maintenance of all records, office equipment, files, telephone equipment and office space necessary for customer service;
  - 2) administer a mandatory final examination for each pre-licensure course offering;



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

- 3) provide each student within 21 days after completion of each course (or within 21 days after a request by a student or OBRE), a certification of completion, transcript or other document verifying hours of attendance, successful course completion and identifying the course by name and number, if any. In addition, such certificate, transcript or other document shall indicate the provider's address and telephone number, the location and date of the course, and include an authorized signature of the course provider's representative;
- 4) comply with all applicable fire, building, zoning, health, safety and accessibility codes and standards pertaining to the premises, equipment and facilities of the course site;
- 5) provide the student with information which specifies the course of study to be offered, the tuition to be charged, the school's policy regarding refund of unearned tuition when a student is dismissed or withdraws voluntarily or through hardship, any additional fee to be charged for supplies, materials or books which become the property of the student upon payment, and such other matters as are material to the relationship between the school and the student (e.g., cost of retaking a course, current status of licensure, any disciplinary action taken by OBRE and attendance requirements);
- 6) maintain for each student a record which shall include the course of instruction undertaken, dates of attendance, and areas of study completed satisfactorily. Each student's record shall be maintained by the school for a period of at least 7 years and shall be available for inspection by the student or by OBRE or its designee during regular business hours; and
- 7) within twenty-one (21) days after completion of each CE course presentation, the provider shall certify to OBRE a roster of all duly registered students. The roster shall be on forms provided by OBRE and shall include:
  - A) the CE course license number;
  - B) the license number of the provider;
  - C) the date(s) and location of the CE presentation;
  - D) the name of the instructor(s);
  - E) a listing of students by full name, appraiser license number, social security number and an indication that the student did or did not attend a minimum of 90% of the course (the names shall be listed in alphabetical order);
  - F) the authorized signature of a representative of the provider; and
  - G) the roster form must be stamped, using the personalized stamp provided to the provider by OBRE.
- 8) Employ competent instructors.
  - A) Instructors for courses in the IL-IV, IL-V and IL-VII curricula shall be Certified General Real Estate Appraisers or full time faculty members of a 4-year college or

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

- university.
- B) Instructors for courses in the IL-I, IL-II, IL-III and IL-VI curricula shall be Certified Residential or Certified General Real Estate Appraisers or full time faculty members of a 4-year college or university.
- C) For CE courses and courses in the IL-E curriculum, instructors should be persons with education and experience in appraisal and/or the subject matter of the course.
- 9) Approved course providers shall not advertise as being endorsed, recommended or accredited by OBRE. Course providers may indicate that the provider and course of study have been approved or is pending approval by OBRE.
- 10) Illinois Colleges and Universities which apply as appraisal education providers under this Section shall be accredited by the regional accrediting body and offer either or both an associate's and baccalaureate degree program.
- b) Fee Exemption. OBRE shall approve and issue a license to any entity who certifies to the above criteria on an application form provided by OBRE. The application shall be accompanied by the application fee as provided in Section 1455.130 of this Part. The following entities are exempt from the fees:
  - 1) Illinois Colleges and Universities accredited by the regional accrediting body and who offer either or both an associate's and baccalaureate degree program will not be required to pay the application fees.
  - 2) Agencies under the jurisdiction of the Governor of the State of Illinois will not be required to pay the application fees.
  - c) Sub-organizations (such as chapters, branch schools and local associations) may apply to OBRE for licensure as an appraisal education sub-provider. The application must certify that the office is licensed under the appraisal education provider's license of the parent organization. Sub-providers may apply for licensure for CE courses but may not seek licensure for pre-licensure appraisal courses. The applicant for a sub-provider license shall certify on forms provided by OBRE that:
    - 1) the sub-organization is an authorized affiliate of the parent organization;
    - 2) the sub-organization certifies to and promises to abide by and maintain the qualifying criteria provided in subsection (a)(3) through (8) of this Section;
    - 3) the parent organization will review and approve any course submitted for licensure, or that the parent organization will award credit for the course within their designation program;
    - 4) the license of the parent organization may not be jeopardized or disciplined as a result of the actions of the sub-provider, but that the courses licensed under the sub-provider'ship may be revoked as a result of violation of any of the application covenants;



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

- 5) each CE course sub-provider shall issue to each registered student a certificate of attendance that shall indicate the student's name, social security number or appraiser license/certification number, the date(s) and location of the course, the signature of an authorized representative of the sub-provider and a statement that the student did or did not attend a minimum of 90% of the course. A certificate of attendance may be in the form of a course attendance diploma, a certification letter, an official transcript or a "Uniform Request for Continuing Education Credit";
- 6) Within twenty-one (21) days after completion of each CE course presentation, the sub-provider shall certify to OBRE a roster of all duly registered students. The roster shall be on forms provided by OBRE and shall include:
  - A) the CE course license number;
  - B) the license number of the parent provider;
  - C) the date(s) and location of the CE presentation;
  - D) the name of the instructor(s);
  - E) a listing of students by full name, appraiser license number, social security number and an indication that the student did or did not attend a minimum of 90% of the course (the names shall be listed in alphabetical order);
  - F) the authorized signature of a representative of the sub-organization; and
  - G) the roster form must be stamped, using the personalized stamp provided to the sub-organization by OBRE.

### Section 1455.210 Pre-Licensure Course Curricula EMERGENCY

- a) All courses approved for licensure, as pre-licensure appraisal courses, shall be categorized into one of the eight curricula listed below.
  - 1) Courses assigned to the IL-I curricula, USPAP Courses, must contain a minimum of 15 hours of instruction including a final examination of a least 25 questions. To be approved for licensure, the applicant must submit a course syllabus which indicates a time frame for topic. In addition, all course materials including text books and final examination must be submitted with the application. The examination may be a 25 question examination or a pool of examination questions from which a final examination may be developed for each presentation. The materials will not be returned. To be approved for licensure, the course must adequately cover 100% of the following topics:
    - A) Ethics Provision - USPAP;
    - B) Competency Provision - USPAP;
    - C) Departure Provision - USPAP;

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

- D) All sections of Standards 1 through 6 of the USPAP;
- E) Advisory Opinions/Statements/Comments - USPAP; and
- F) Fair Housing/Fair Lending.
- 2) Courses assigned to the IL-II curricula are those that cover Basic Principles of Appraisal, including overview of the appraisal process covering the principles of market and valuation analysis necessary for appraising real property, an introduction to appraisal theory, concepts, techniques, and the level of competence required to perform professional appraisal analyses. These courses must contain a minimum of 30 hours of instruction including a final examination of at least 50 questions. Two courses of 15 hours each may be approved in tandem; i.e., to receive credit for either, the student would have to successfully complete both. To be approved for licensure, the applicant must submit a course syllabus which indicates a time frame for topic presentation. In addition, all course materials must be submitted, including the text books and final examination, with the application. The materials will not be returned. The examination may be a 50 question examination or a pool of examination questions from which a final examination may be developed for each presentation. The following specific topics must be included in the course curriculum:
  - A) Influences on Real Estate
  - B) Real Estate/Real Property/Personal Property
  - C) Real Estate Ownership
  - D) Legal Descriptions
  - E) Types of Value
  - F) Economic Principles
  - G) Neighborhood Data and Analysis
  - H) Site Data and Analysis
  - I) Improvement Data and Analysis
  - J) Basic Construction and Design
  - K) Highest and Best Use Analysis
  - L) Reconciliation and Final Value Estimate
- 3) Courses assigned to the IL-III curricula, Residential Appraisal Procedures, are those designed to provide an understanding and working knowledge of the procedures and techniques required to estimate the market value of residential properties. Emphasis should be placed on the extraction of data and the correct application of the three approaches to real estate valuation. These courses must contain a minimum of 30 hours of instruction including a final examination of at least 50 questions. Two courses of 15 hours each may be approved in tandem; i.e., to receive credit for either, the student would have to successfully complete both. To be approved for licensure, the applicant must submit a course syllabus which indicates the time frame for topic presentation. In addition, all course materials must be submitted, including the text books and final examination, with

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

the application. The materials will not be returned. The examination may be a 50 question examination or a pool of examination questions from which a final examination may be developed for each presentation. The following specific topics must be included in the course curriculum:

- A) Residential Site Valuation - Sales Comparison
- B) Cost Approach - Cost Estimates
- C) Cost Approach - Entrepreneurial Profit/Incentive
- D) Cost Approach - Types of Depreciation
- E) Cost Approach - Depreciation - Age-Life Method
- F) Cost Approach - Depreciation - Market Extraction Method
- G) Cost Approach - Application
- H) Sales Comparison Approach - Units of Comparison
- I) Sales Comparison Approach - Elements of Comparison
- J) Sales Comparison Approach - Cash Equivalency
- K) Sales Comparison Approach - Making Adjustments
- L) Sales Comparison Approach - Application
- M) Income Capitalization Approach - Gross Rent Estimates
- N) Income Capitalization Approach - Gross Rent Multiplier
- O) Income Capitalization Approach - Application

4) Courses assigned to the IL-IV curricula, Non-residential Appraisal Procedures, are those that focus on the appraisal of nonresidential properties and provide a practical solution for estimating value by an in-depth study of appraisal theory and the development of advanced valuation skills. These courses must contain a minimum of 30 hours of instruction including a final examination of at least 50 questions. Two courses of 15 hours each may be approved in tandem; i.e., to receive credit for either, the student would have to successfully complete both. To be approved for licensure, the applicant must submit a course syllabus which indicates the time frame for topic presentation. In addition, all course materials, including the text books and final examination, must be submitted with the application. The materials will not be returned. The examination may be a 50 question examination or a pool of examination questions from which a final examination may be developed for each presentation. The following specific topics must be included in the course curriculum:

- A) Site Valuation - Sales Comparison
- B) Site Valuation - Allocation/Extraction
- C) Cost Approach - Cost Estimates
- D) Cost Approach - Entrepreneurial Profit/Incentive
- E) Cost Approach - Types of Depreciation
- F) Cost Approach - Depreciation - Age-Life Method
- G) Cost Approach - Depreciation - Market Extraction Method
- H) Cost Approach - Application
- I) Sales Comparison Approach - Units of Comparison
- J) Sales Comparison Approach - Elements of Comparison

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

- K) Sales Comparison Approach - Cash Equivalency
- L) Sales Comparison Approach - Making Adjustments
- M) Sales Comparison Approach - Application
- N) Income Approach - Income Estimates
- O) Income Approach - Expense Estimates
- P) Income Approach - Capitalization Rates
- Q) Income Approach - Direct Capitalization
- R) Income Approach - Income Multipliers
- S) Income Approach - Application

5) Courses assigned to the IL-V curricula, Capitalization Methods and Techniques, are to provide alternative methods of estimating present value based on income forecasts. These courses focus on more advanced capitalization methods and techniques. These courses must contain a minimum of 30 hours of instruction including a final examination of at least 50 questions. Two courses of 15 hours each may be approved in tandem; i.e., to receive credit for either, the student would have to successfully complete both. To be approved for licensure, the applicant must submit a course syllabus which indicates the time frame for topic presentation. In addition, all course materials, including the text books and final examination, must be submitted with the application. The materials will not be returned. The examination may be a 50 question examination or a pool of examination questions from which a final examination may be developed for each presentation. The following specific topics must be included in the course curriculum:

- A) Six Functions of \$1
- B) Lease Analysis/Gross Income Estimates
- C) Vacancy and Collection Loss
- D) Operating Expense Estimates
- E) Replacement Allowances
- F) Operating Statement Ratios and Multipliers
- G) Debt Service/Equity Dividend
- H) Direct Capitalization
- I) Overall Rate Development - Market Extraction
- J) Overall Rate Development - Band of Investment
- K) Overall Rate Development - Ratios/Multipliers
- L) Equity Dividend Rate
- M) Debt Coverage Ratio
- N) Cash Flow Estimates
- O) Reversion Estimates
- P) Discount and Yield Rates
- Q) Yield Capitalization Overview
- R) Discounted Cash Flow Analysis

6) Courses assigned to the IL-VI curriculum are residential report writing courses designed to provide students with a basic understanding of effective writing as it pertains to residential real estate appraisals. Courses should include instruction in

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

completing residential appraisal forms but should also cover narrative reporting relative to residential property, especially narrative reporting to further clarify a form type appraisal. Courses should be developed to teach the appraiser student methods and techniques that will enable them to write in a clear and concise manner and to accentuate the pertinent facts and eliminate non-pertinent information. The intent of these courses is to provide the student with the ability to prepare residential appraisal reports which will enable a reader who is unfamiliar with the appraisal process to understand the basics of the value approaches and be convinced that the conclusions drawn by the appraiser based on the data presented is reasonable and correct. These courses must contain a minimum of 15 hours of instruction. The final examination must include a minimum of 25 questions. To be approved for licensure, the applicant must submit a course syllabus which indicates the time frame for topic presentation, all course materials including the text books and the final examination. The materials will not be returned. The examination may be 25 questions or a pool of questions from which a final examination may be developed to a minimum of 25 questions.

- 7) Courses assigned to the IL-VII curriculum are courses designed to provide students with a basic understanding of effective writing as it pertains to non-residential real estate appraisals. Courses should include instruction in completing non-residential appraisal forms but should also cover narrative reporting relative to non-residential property. Courses should be developed to teach the appraiser student methods and techniques that will enable them to write in a clear and concise manner and to accentuate the pertinent facts and eliminate non-pertinent information. The intent of these courses is to provide the student with the ability to prepare non-residential appraisal reports which will enable a reader who is unfamiliar with the appraisal process to understand the basics of the value approaches and be convinced that the conclusions drawn by the appraiser based on the data presented is reasonable and correct. These courses must contain a minimum of 15 hours of instruction. The final examination must include a minimum of 25 questions. To be approved for licensure, the applicant must submit a course syllabus which indicates the time frame for topic presentation, all course materials including the text books and the final examination. The materials will not be returned. The examination may be 25 questions or a pool of questions from which a final examination may be developed to a minimum of 25 questions.
- 8) Courses assigned to the IL-E curriculum (Electives) are courses that contain topics not covered in the core course curricula; nonappraisal topics that relate to real estate appraisal such as

statistics, real estate law, etc.; or a more copious presentation of a topic or topics that are included in the core courses. Elective courses shall be approved for a minimum of 15 hours or 30 hours of instruction, with the maximum approval of 30 hours. Elective courses must include a final examination with a minimum of 25 questions for 15 hours of instruction and 50 questions for 30 hours of instruction. To be approved for licensure, the applicant must submit a course syllabus which indicates the time frame for topic presentation. In addition, all course materials, including the text books and final examination, must be submitted with the application. The materials will not be returned. The examination may be 25 questions (15 hour course), 50 questions (30 hour course), or a pool of examination questions from which a final examination may be developed for each presentation. Credit for elective hours can be achieved by successful completion of courses approved in the IL-E curriculum.

- b) Successful completion of a pre-licensure course means that a student attended a minimum of 90% of all instruction and correctly answered 70% of all final examination questions.
- c) Pre-licensure courses shall be licensed for credit hours required by the curriculum; however, courses requiring a minimum of 30 hours may be approved as two 15 hour courses. Pre-licensure courses, licensed prior to July 1, 1998 having classroom hours in excess of the curriculum requirement and approved for elective credit, shall not be renewed to include the excess hours. Upon the expiration date of these courses, providers may apply for renewal of approved credit hours in the initial curriculum with the exception of the excess credit hours.

#### Section 1455.220 Continuing Education Course Curricula EMERGENCY

- a) All CE courses licensed by OBRE are in 4 categories:
  - 1) IL-CE-I are courses with topic material that relates to appraisal methods, techniques, theory, practice, and any other material relating to the practice of real estate appraisal. Courses in this curriculum may be approved for 3 to 28 hours.
  - 2) IL-CE-II are courses that contain real estate topics other than real estate appraisal. Courses in this curriculum may be approved for 3 hours to 28 hours.
  - 3) IL-CE-III are courses that contain topic material relative to the USPAP Provisions and Standards. Courses in this curriculum may be approved for 3 hours to 28 hours.
  - 4) IL-CE-IV are courses that contain material relative to Fair Housing and Fair Lending. These courses will contain a minimum of 3 hours.
- b) CE courses, with or without a final examination, shall be approved by the Director, upon the recommendation of the Board. If the Director

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

decides to approve or deny a course against the recommendation of the Board, then his/her reasons shall be submitted in writing to the Board with a copy to the Commissioner. The Board may move to petition the Commissioner to reverse the decision of the Director. The Commissioner's decision to approve or deny the course shall be final. Courses licensed by OBRE for pre-license appraiser education are approved for CE credit. The renewal applicant will be awarded credit for attendance at these courses provided the license for the course was valid and in good standing at the time of attendance, and provided the course is not repetitious, i.e., a course taken twice during the same pre-renewal period. A maximum of 28 CE hours may be credited for pre-licensure courses.

d) The application for each course approval shall include a description of the course, a course (or instructor's) outline that shall list the time frame for topic presentation, the number of classroom instruction hours excluding examination, the time allotted for examination (if any), the specific course name as it will appear on transcripts or course certifications, a sample of the certificate, the transcript or other documentation that will be used to document the student's attendance, and any other information that may be required by OBRE.

1) An applicant may be required to submit texts and all other course materials for evaluation by the Appraisal Board.

2) The application for CE courses being offered by a sub-provider shall also include a certification in accordance with Section 1455.200(c) of the Part.

3) The Board/Director shall approve courses that would contribute to the integrity, extension and enhancement of professional skills and knowledge in the practice of Real Estate Appraisal.

4) The Board/Director shall not approve:

- A) motivation courses or seminars;
- B) courses or seminars that focus on the recruitment of employees or clients;
- C) courses or seminars with instructional material relative to associations;

D) courses or seminars with instructional material relative to passing the State's appraiser examination;

E) courses or seminars having less than three classroom hours of instruction exclusive of examination (if any); and

F) a course for more than 28 hours CE credit.

5) Subsequent to approval of any CE course, revisions in course content and/or course material shall be submitted for re-evaluation and re-approval. Failure to report course changes may result in revocation of the CE course license. The fee for re-approval shall be in accordance with Section 1455.130 of this Part.

6) Approval (license) for CE courses shall expire on September 30 of odd numbered years. The provider or sub-provider may renew the approval (license) by completing a renewal application and paying

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

the renewal fee in accordance with Section 1455.130 of this Part. e) Audits and Inspections. OBRE may conduct on-site inspections of the course provider's (or sub-provider's) place of business and may audit any session of any course approved for pre-license or CE credit.

1) At the request of OBRE, a course provider shall provide a list of all courses that the provider is planning to offer within a 6-month period subsequent to the request. The list shall include the name and license number of each course, as well as the date, time and location of each presentation.

2) In the event of a course audit, the provider shall provide OBRE, at no cost, all course materials used in the presentation of the course being audited.

3) An OBRE or designated OBRE employee may inspect the business office of any course provider (or sub-provider) during normal business hours.

f) CE Course Withdrawal of Approval, Termination, Revocation

1) OBRE, upon recommendation of the Real Estate Appraisal Board, shall terminate, revoke, suspend or place on probation the approval of the real estate appraiser education provider when the quality of the program fails to continue to meet the established criteria of an approved provider as set out in Sections 1455.200, 1455.210 and 1455.220 of this Part, or upon determination that the decision to approve the program was based upon false or deceptive information.

2) The provider's license will terminate immediately upon the failure to renew. Course licenses will terminate immediately upon the expiration date or upon the termination of the provider's license. The provider may thereafter reapply for approval as an appraiser education provider and for course approval.

Section 1455.230 Appraisal Course Providers/Courses, Enforcement Procedures  
EMERGENCY

a) OBRE shall investigate, or contract for investigation, all written complaints relative to violations by course providers or sub-providers registered with OBRE under the Act, or a violation of any of the provisions of Section 90(b) of the Act.

b) The Director shall have discretionary authority to close complaint cases:

1) when OBRE has no regulatory authority over the course provider (or sub-provider) for which the allegations are charged;

2) when the written complaint contains no evidence of a violation or reasonable cause to further investigate;

3) when the written complaint contains no means to obtain further needed information or documentation from the complainant or when the complainant will not cooperate by testifying or by providing further information or documentation;

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

- 4) when, in the opinion of the Director, the evidence from a preliminary investigation would not result in successful prosecution;
- 5) when, in the opinion of the Director, the alleged violation was apparently inadvertent and had caused no significant harm to a student or the public; and
- 6) when the investigation indicates that no violation has occurred, or that a violation might have occurred but the evidence, in the opinion of the Director, is less than clear and convincing.

c) Cases closed by the Director shall be referred to as Executive Closure or Dismissal and a summary of the allegations and reasons for closure will be available to the individual members of the Board for a period of six months, during which time a member may question the Director's decision and request the case be reopened.

- 1) In the event a Board member requests a case be reopened, the Director shall reopen the case for further investigation or submit in writing, within 21 days after the request, the reasons why he will not honor the request.

- 2) If the Director does not reopen a case that has been closed by Executive Dismissal, then the Board member may petition the Assistant Commissioner of Real Estate Professions, who shall consider both sides of the issue and decide if the case should be reopened. The decision of the Assistant Commissioner is final.

d) Upon the completion of an investigation or a preliminary investigation the Director may, in accordance with Section 90 of the Act, hold an informal disciplinary conference with the course provider's representative(s) which shall be attended by at least one member of the Board and the Director, or his/her designee. An assistant of the Director, or his/her designee, may attend the conference to assist in the proceeding.

- 1) The purpose of the conference shall be to attain further facts in the matter, to allow the provider to speak on his/her own behalf relative to the allegations presented at the meeting, and to seek a recommendation from the Conference Panel as to the disposition of the case.

- 2) At the conclusion of each informal conference, the Conference Panel may recommend that a settlement offer not be extended, in which case the file will change status from open active to pending formal hearing, and the investigation shall continue. Upon completion of the investigation, the file shall be submitted to prosecution for hearing in accordance with Section 100 of the Act and Subpart D of this Part.

- 3) The conference panel may recommend to the Director a disposition of the case by settlement offer. Such a recommendation shall include the terms and/or conditions for settlement. The recommendation shall be in one of the following forms:

- A) that no further action be taken by OBRE on the allegations;
- B) that an Administrative Warning Letter (AWL) be issued with

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

- C) or without conditions;  
a Consent Order to Administrative Supervision (CAS-a non-publishable discipline) with or without conditions which may include, but shall not be limited to, reimbursement of costs associated with the handling of the complaint;

- D) a Consent Order (CO) which shall include a publishable discipline of reprimand, probation, suspension, revocation, reclassification of licensure, other terms and conditions, and/or a fine of up to \$10,000 for each violation;

- E) the Director shall prepare the documents for disposition of a case by Informal Disciplinary Conference (AWL, CO, CAS or letter dismissing the case) and transmit the documents to the course provider or sub-provider with any necessary instructions for his/her completion;

- F) The complainant shall be notified by the Director of the disposition of the case;

- G) The terms and conditions of any dismissal, with or without conditions, and the terms of a Consent to Administrative Supervision shall be confidential except that the complainant, if a known individual, will be notified of the Administrative Supervision and the period of supervision.

- i) The terms and conditions of a dismissal or a CAS may be released by legal mandate such as a court order or subpoena but is exempt from the Freedom of Information Act.

- ii) In cases where the complaint is dismissed, with or without conditions, or where a license is placed on Administrative Supervision, OBRE, REAA will report the license in good standing, active or non-renewed, and the license may be reported by the course provider as a license in good standing that has not been disciplined;

- H) The terms and conditions of a CO, upon request and payment of any applicable duplication fees, shall be released by the Director. The terms and conditions of a CO may be published in the REAA newsletter publication along with course provider's name and license number, and, when applicable, the course name and license number may be published in other forums. A CO is available to the general public;

- I) This Section shall not limit the authority of OBRE to negotiate settlement agreements with course providers without an informal conference proceeding, or to revise the conditions of a AWL, CAS or CO, as recommended by the Conference Panel, in accordance with Section 90 of the Act.

SUBPART C: APPRAISER ENFORCEMENT



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

**Section 1455.300 Appraiser Enforcement Procedures  
EMERGENCY**

- a) OBRE shall investigate, or contract for investigation, all written complaints relative to the appraisal practice of persons registered as appraisers under the Act.
- b) The Director shall have discretionary authority to close complaint cases when:
  - 1) OBRE has no regulatory authority over the persons for which the allegations are charged;
  - 2) the written complaint contains no evidence of a violation or reasonable cause to further investigate;
  - 3) the written complaint contains no means to obtain further needed information or documentation from the complainant, or when the complainant will not cooperate with testimony or by providing further information or documentation;
  - 4) in the opinion of the Director, the evidence from a preliminary investigation would not result in successful prosecution;
  - 5) in the opinion of the Director, the alleged violation was apparently inadvertent and caused no significant harm to the public;
  - 6) the only basis of a complaint is that the final value estimate was "too high" or "too low"; and
  - 7) the investigation indicates that no violation has occurred, or that a violation might have occurred but the evidence, in the opinion of the Director, is less than clear and convincing.
- c) Cases closed by the Director shall be referred to as Executive Closure or Dismissal and a summary of the allegations and reasons for closure will be available to the individual members of the Board, for a period of six months, during which time a member may question the Director's decision and request the case be reopened:
  - 1) In the event a Board member requests a case be reopened, the Director shall reopen the case for further investigation, or submit in writing, within 21 days after the request, the reasons why he will not honor the request.
  - 2) If the Director does not reopen a case that has been closed by Executive Dismissal, then the Board member may petition the Assistant Commissioner of Real Estate Professions, who shall consider both sides of the issue and decide if the case should be reopened. The decision of the Assistant Commissioner is final.

**Section 1455.310 Informal Conferences  
EMERGENCY**

- a) Upon the completion of an investigation or a preliminary investigation the Director may, in accordance with Section 90 of the Act, hold an informal disciplinary conference with respondent, which shall be attended by at least one member of the Board and the Director, or

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

- b) The purpose of the conference shall be to attain further facts in the matter, to allow respondents to speak on their own behalf relative to the allegations presented at the meeting, and to seek a recommendation from the Conference Panel as to the disposition of the case.
- c) At the conclusion of each informal conference the Conference Panel may recommend that a settlement offer not be extended, in which case the file will change status from open active to pending formal hearing and the investigation shall continue. Upon completion of the investigation, the file shall be submitted to prosecutions for hearing in accordance with Section 100 of the Act and Subpart D of this Part, or the conference panel may recommend to the Director a disposition of the case by settlement offer.

**Section 1455.320 Settlements  
EMERGENCY**

A recommendation of settlement offer shall include the terms and/or conditions for settlement. The recommendation shall be in one of the following forms:

- a) dismissal of the allegations with or without conditions;
- b) a dismissal by Administrative Warning Letter (AWL) with or without conditions;
- c) a Consent Order (CO) to Administrative Supervision (CAS-a non-publishable discipline) with or without conditions which may include, but shall not be limited to, reimbursement of costs associated with the handling of the complaint;
- d) a Consent Order which shall include a publishable discipline of reprimand, probation, suspension, revocation, reclassification of licensure, other terms and conditions, and/or a fine of up to \$10,000 for each violation;
- e) the Director shall prepare the documents for disposition of a case by Informal Disciplinary Conference (AWL, CO, CAS or letter dismissing the case) and transmit the documents to the respondent with any necessary instructions for his/her completion;
- f) the complainant shall be notified by the Director of the disposition of the case;
- g) the terms and conditions of any dismissal, with or without conditions, and the terms of a Consent to Administrative Supervision shall be confidential except that the complainant, if known, will be notified of the Administrative Supervision and the period of supervision.
  - 1) The terms and conditions of a dismissal or a CAS may be released by legal mandate such as a court order or subpoena but is exempt from the Freedom of Information Act.
  - 2) A licensee whose case has been dismissed, with or without conditions, or a license that is or has been placed on Administrative Supervision will be reported by OBRE, REAA as a



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

license in good standing, active or non-renewed, and may be reported by the respondent as a license in good standing that has not been disciplined

- h) The terms and conditions of a CO, upon request and payment of any applicable duplication fees, shall be released by the Director. The terms and conditions of a CO may be published in the REAA newsletter publication along with respondent's name and license number, and may be published in other forums. A CO is available to the general public.

- i) This Section shall not limit the authority of OBRE to negotiate settlement agreements with appraisers without an informal conference proceeding, or to revise the conditions of a AWL, CAS or CO, as recommended by the Conference Panel, in accordance with Section 90 of the Act.

## SUBPART D: HEARINGS

## Section 1455.400 Applicability

## EMERGENCY

This Subpart shall apply to all hearings conducted under the jurisdiction of the Office of Banks and Real Estate, Division of Real Estate Appraisal Administration (hereinafter, the Agency) and the Commissioner thereof.

## Section 1455.410 Institution of a Contested Case by the Agency

## EMERGENCY

- a) A contested case is instituted by the Agency when a Complaint and Notice are mailed to the respondent's last known address, postage prepaid, by certified mail, by other signature restricted delivery service, or by personal delivery.
- b) A Complaint shall be in writing, signed by the Chief of Real Estate Appraisal Prosecutions and shall include a clear statement of the acts or omissions alleged to violate a statute or rule, and citation of the statute or rule.
- c) A Notice shall be in writing, shall contain the date, time, place and nature of the hearing to be held, shall refer to the Agency's rules of Practice (68 Ill. Adm. Code 1455, Subpart D and Appendices A and B), and shall comply with the Notice requirements of Section 1455.470 of this Part.

## Section 1455.420 Institution of a Contested Case by Petitioner

## EMERGENCY

- a) A contested case is instituted by a petitioner when a Petition for Hearing is served on the Agency in Springfield, Attention: Director of Real Estate Appraisal, postage prepaid, or delivered personally and

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

received by the Agency in Chicago.

- b) In a case where a petitioner is seeking restoration of a certificate of registration that was revoked or suspended, the Petition for Hearing shall be in writing, signed by the petitioner, and shall set forth:

- 1) The number of the certificate which was suspended or revoked;
  - 2) The docket number of the case that resulted in discipline;
  - 3) The date on which the suspension or revocation was ordered;
  - 4) Whether the order that suspended or revoked the license was appealed, and if so, whether a stay of the imposition of discipline was granted by any reviewing court;
  - 5) Proof of compliance with any conditions precedent to the filing of a petition, including, but not limited to, the payment of any fine, restitution, or course completion;
  - 6) All dates and types of employment held since the discipline was imposed, including the name of the employer, the employer's address and telephone number, and the name of any supervisor;
  - 7) All continuing or remedial education completed since the discipline was ordered;
  - 8) If the petitioner has sought medical treatment, psychotherapy or counseling since the discipline was ordered, and if rehabilitation is relied upon as a basis for petitioning that the license be restored, the name and address of the treating professional and whether petitioner consents to disclosure by the professional of matters that are relevant to whether petitioner is fit to resume practice;
  - 9) Any arrests or convictions since the discipline was ordered;
  - 10) Any disciplinary actions commenced or taken against the petitioner by any other licensing or regulatory agency in this State, or any other jurisdiction;
  - 11) A certification by the petitioner that he/she is in compliance with all applicable Court Orders and laws, including, but not limited to, those regarding student loans, continuing education requirements, child support and Illinois tax liabilities; and
  - 12) Date and disposition of any other petitions for restoration filed since the discipline was ordered.
- c) The Agency may file a Notice of Intent to Deny License, Notice of Intent to Refuse to Renew, or Notice of Intent to Suspend in matters alleging the registrant has been convicted of a crime, failed to file a tax return or pay Illinois taxes, child support, or Illinois guaranteed student loans, or has failed to comply with the continuing education renewal requirements and/or experience renewal requirements. The petitioner may respond to such Notices and seek to contest the decision by the Agency by the filing of a Petition for Hearing. The Petition for Hearing must be in writing, signed by the petitioner, and shall state with specificity the particular reasons why the petitioner believes that the reasons listed on the Notice are incorrect. When appropriate, the petitioner shall attach supporting documentation.

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

The Petition for Hearing must be served upon the Agency no later than 30 days after the date of service of the Agency's Notice. Upon receipt by the Director of a properly completed Petition for Hearing, a case will be docketed and notice will be sent to the petitioner setting forth the date, time, and place of the Preliminary Hearing.

- d) The petitioner, or the petitioner's counsel, must appear for the Preliminary Hearing and any subsequent Status Hearings, unless a continuance has been granted by the Administrative Law Judge for good cause upon a written Motion for Continuance.

**Section 1455.430 Parties to Hearings****EMERGENCY**

The parties to an administrative hearing before the Agency are the Office of Banks and Real Estate and the Respondent or Petitioner.

**Section 1455.440 Joinder****EMERGENCY**

In the interest of a convenient, expeditious, and complete determination of matters, the Administrative Law Judge may consolidate or sever hearing proceedings involving any number of parties, and may order additional parties to be brought in.

**Section 1455.450 Form of Papers****EMERGENCY**

- a) All papers filed in any proceedings, except exhibits, shall be typewritten or printed. Long quotations shall be single spaced and indented.
- b) All papers, except exhibits, shall be cut or folded so as not to exceed a width of 8 1/2 inches and a length of 11 inches and shall have inside margins not less than one inch wide. Whenever practical, all exhibits of a documentary character shall conform to these requirements.
- c) All pleadings, written motions, or notices filed in the administrative proceedings shall be dated and signed in ink by the party filing the paper or his or her attorney or representative.
- d) Pleadings, written motions, and notices shall contain the address of the party filing the paper or, if represented by an attorney, the name, business address and telephone number, including area code, of such attorney.
- e) The first page of all pleadings, written motions or notices shall conform to the Agency's pleading format. (See Appendix A or B, whichever is applicable.)

**Section 1455.460 Service****EMERGENCY**

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

- a) Service of any document may be by certified mail, personal delivery, or other signature restricted delivery service. Proof of service will be attached to the original of any document. In the absence of evidence to the contrary, the date shown on the proof of service shall be deemed the date of service.
- b) Service on the Commissioner, the Board, or the Agency is made by service on the Director at the Springfield headquarters. The date of service upon the Agency is either the date the document is personally delivered or deposited into the U.S. mail, postage pre-paid.
- c) Service on a petitioner, registrant or respondent shall be by certified mail, personal delivery or other signature restricted delivery service to the last known address of record with the Agency, or to the last known address of the Illinois licensed attorney having filed an appearance on behalf of the respondent or petitioner, or by personal service.
- d) Service of any documents as provided in subsection (b) above will include at least two copies of the documents served.
- e) In a contested case instituted by the petitioner, the original and all copies of the initial petition will be served on the Director in Springfield. Thereafter, the petitioner will serve the original document on the Director in Springfield with a copy to the Chief of Real Estate Appraisal Prosecutions in Chicago. In all other cases, the original document will be served on the Director in Springfield with a copy to the Chief of Real Estate Appraisal Prosecutions in Chicago.

**Section 1455.470 Notice****EMERGENCY**

- a) Notice shall include:
- 1) A statement of the time, place and nature of the hearing;
  - 2) A statement of the legal authority and the jurisdiction under which the hearing is held;
  - 3) Except where a more detailed statement is otherwise provided for by law, a short and plain statement of the matters asserted;
  - 4) A statement that failure to file an answer within 20 days after service of the notice will result in default being taken against the applicant or licensee and that the license or certificate may be suspended, revoked, or placed on probationary status, or other disciplinary action may be taken, including limiting the scope, nature or extent of practice, as the Commissioner may deem proper;
  - 5) A statement that the Office of Banks and Real Estate shall afford the person an opportunity to be heard in person or by counsel.
- b) Except as otherwise provided by statute, the respondent will be given at least 30 days notice prior to the first date set for the Preliminary Hearing or hearings, as the case may be.
- c) Any change of address by the respondent or a petitioner must be in

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

writing signed by the respondent or petitioner and served upon the Agency in Chicago.

- d) Any contention that improper notice was given will be deemed waived unless it is raised by the respondent or petitioner upon the first appearance of the respondent or petitioner.
- e) Proper notice is given by depositing a Notice with the U.S. Postal Service, either by certified mail or other signature restricted delivery service, to the last known address of the respondent or petitioner, or the Illinois licensed attorney having filed an appearance on behalf of the respondent or petitioner, or by personal service.

**Section 1455.480 Representation****EMERGENCY**

- a) A party may be represented by an attorney who is licensed in Illinois. Attorneys who appear in a representative capacity must file a written notice of appearance setting forth:

- 1) The name, address and telephone number of the attorney; and
- 2) The name and address of the party represented.
- b) Attorneys licensed in other jurisdictions may appear on motion.
- c) Special appearances are not recognized. The initial appearance regardless of form is deemed a general appearance.
- d) An attorney may withdraw from employment as a representative only upon written notice to the Agency that states the attorney's specific reasons for withdrawing. Such written notice of withdrawal must be served upon the party who was represented in accordance with Section 1455.470. An affidavit of service must accompany the notice of withdrawal.

- e) Any corporation, partnership, limited liability company, or other legal entity must be represented by an Illinois licensed attorney.

- f) Attorneys appearing before the Agency shall conform their conduct to the Illinois Rules of Professional Conduct, effective August 1, 1990, and as amended thereafter. Any failure to behave in a manner that permits the efficient functioning of the Agency will authorize the Board or Administrative Law Judge to take the following actions:

- 1) limitation of evidence;
- 2) substitution of written argument in place of oral argument;
- 3) exclusion of an attorney from the proceeding.
- g) If any of the actions set forth in subsection (f) above are taken by the Board or Administrative Law Judge, it shall be done as a matter of record, and the Board or Administrative Law Judge shall state for the record the specific reasons for the action.

**Section 1455.490 Failure to Appear****EMERGENCY**

Failure to appear at the time and place set for hearing shall be deemed a

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

waiver of the right to present evidence. After presentation by the Agency of an offer of proof that the respondent was given proper notice, the Board may deem the allegations of the complaint to be true, and shall make its recommendation. When a petitioner fails to appear, the Petition for Hearing shall be dismissed.

**Section 1455.500 Amendment, Withdrawal of Complaints and Petitions for Hearing**  
**EMERGENCY**

- a) The Complaint may be amended at any time. An amended Complaint may be filed in the same manner as a Complaint, or it may be presented to the Board or Administrative Law Judge during the course of the hearing. A continuance shall be granted whenever the amendment materially alters the Complaint, and when the respondent demonstrates that he/she would otherwise be unable to continue to defend his or her case properly.
- b) A Complaint or Petition for Hearing may be withdrawn at any time prior to the hearing by the party who initiated it. After a hearing has begun, a Complaint may be withdrawn only upon written notice and with the permission of the Director.

**Section 1455.510 Requirement of an Answer****EMERGENCY**

- a) In all contested cases instituted by the Agency, the respondent shall file an Answer or otherwise plead within 20 days after the date on which the Complaint was filed. The Answer shall be in writing, signed by the respondent, and shall contain a specific response to each allegation in the Complaint. The response shall either admit or deny the allegation, or shall state that the respondent has insufficient information to admit or deny the allegation.

- b) Any Answer that states that the respondent has insufficient information to admit or deny the allegation shall be accompanied by an affidavit of the respondent attesting to the truth of this assertion.

- c) If an Answer or other responsive pleading has not been served on the Agency by the Preliminary Hearing, the Administrative Law Judge may find the respondent to be in default and order the matter to be sent to the Board on the pleadings.

**Section 1455.520 Discovery****EMERGENCY**

- a) Whether or not a request is made, during discovery a respondent who has filed an Answer or a petitioner shall be entitled to:

- 1) The name and address of any witness who may be called to testify;
- 2) Copies of any document that may be offered as evidence;
- 3) A description of any other evidence that may be offered;
- 4) Any exculpatory evidence in the Agency's possession. Exculpatory evidence is any evidence that tends to support the position of



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

the respondent or petitioner or to call into question the credibility of an Agency witness; and

- 5) A copy of all relevant investigative reports.
- b) Upon a written request served on the respondent or the petitioner, at any time after a Complaint is filed, or at any stage of the hearing, the respondent or petitioner will be required to produce within 7 days documents, books, records or other evidence that relates directly to respondent's practice of real estate appraisal or other subjects of the administrative hearing.
- c) Nothing in this Section shall prevent the parties in a contested case from agreeing to a mutual exchange of information that is more extensive than what is provided for in this Section. When all parties agree to the use of an evidence deposition, such agreement will be in writing and will operate as a waiver of any objection not made during the deposition, except for an objection that the testimony of the witness is not relevant to the case.
- d) Requests to Admit Facts and Genuineness of Documents shall be allowed in accordance with Supreme Court Rule 216.
- e) This Section will be construed to impose a continuing obligation upon the parties to exchange new information as it becomes available.

## Section 1455.530 Subpoenas

## EMERGENCY

- a) The Commissioner, Director or the Administrative Law Judge may issue subpoenas for the attendance of witnesses or production of books, records, documents or other evidence.
- b) Any respondent or petitioner seeking issuance of a subpoena will apply in writing to the Agency, Attention: Chief of Real Estate Appraisal Prosecutions, setting forth facts that purport to demonstrate that the drafted subpoena is required.
- c) Any party who, without lawful authority, in response to a subpoena or notice to produce, fails to appear or to answer any questions or produce any books, papers, records, or other documents relevant or material to such hearing shall, upon motion of the requesting party, be subject to sanctions, including, but not limited to:
  - 1) Dismissal of the case, or
  - 2) Striking of the Answer and sending the matter to the Board for deliberation and recommendation to the Commissioner based on the Notice and Complaint without a hearing, or
  - 3) Limitation or preclusion of evidence at hearing.
- d) Subpoenas shall be enforced in the same manner as subpoenas issued by the circuit courts of this State.

## Section 1455.540 Prehearing Conference

## EMERGENCY

- a) Upon written notice by the Administrative Law Judge in any proceeding,

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

or upon written request by any party, the Administrative Law Judge may direct parties or their attorneys to appear at a specified time and place for a conference, prior to or during the course of hearing, for the purpose of formulating issues and considering:

- 1) Simplification of issues;
- 2) Limitation of issues;
- 3) Negotiating admissions or stipulations;
- 4) Limitation of witnesses or evidence;
- 5) Exchange of exhibits; or
- 6) Discussion of any other matter that may aid in efficient disposition of the case.
- b) Opportunity shall be afforded all parties to be represented by legal counsel and to dispose of the case by stipulation, agreed settlement or consent order, unless otherwise precluded by law. Any stipulation, agreed settlement, or consent order reached before a final determination by the Agency shall be submitted in writing to the Administrative Law Judge and shall become effective only if approved by the Agency.
- c) The Administrative Law Judge shall make a written record of all rulings, decisions or actions taken during the course of a pre-hearing conference.

## Section 1455.550 Hearings

## EMERGENCY

- a) All hearings shall be public unless required by statute to be otherwise. The Administrative Law Judge may permit any person to offer oral testimony whether or not such person is a party to the proceedings.
- b) The following shall be the order of the proceedings of all hearings, subject to modification by the Administrative Law Judge for good cause:
  - 1) Presentation, argument and disposition of motions preliminary to a hearing on the merits of the matter raised in the Notice or Answer;
  - 2) Presentation of opening statements;
  - 3) Complainant's or petitioner's case in chief;
  - 4) Respondent's case in chief;
  - 5) Complainant's case in rebuttal;
  - 6) Complainant's closing statement, which may include legal argument;
  - 7) Respondent's closing statement, which may include legal argument; and
  - 8) Presentation and argument of all motions prior to final order.
- c) The Administrative Law Judge shall direct all parties to enter their appearances on the record.
- d) The Agency will arrange for a certified stenographic reporter (court reporter) to make a stenographic record of the hearing in all

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

administrative hearings under this Part. Any person may make arrangements to obtain a copy of the stenographic record from the reporter. The Agency reserves the right to employ a certified stenographic reporter. A copy of any stenographic record made by an Agency employee may be purchased from the Agency at a cost of one dollar per page. There shall be no audio or video taping apart from any made by the certified stenographic reporter employed for those purposes by the Agency without the express consent of the Administrative Law Judge and all parties to the hearing.

- e) Corrections to the transcript of the record may be made by the Commissioner or the Administrative Law Judge.
- f) If a party, or any person at the instance of or in collusion with a party, violates any ruling of the Administrative Law Judge, the Administrative Law Judge, on motion, may enter such orders as are just, including, among others, the following:

- 1) that further proceedings be stayed until the order or rule is complied with;
- 2) that the offending party be barred from filing any other pleadings relating to any issue to which the refusal of failure relates;
- 3) that the offending party be barred from maintaining any particular claim or defense relating to that issue;
- 4) that a witness be barred from testifying concerning that issue;
- 5) that, as to claims or defenses asserted in any pleading to which that issue is material, an order of default be entered against the offending party or that the offending party's pleading be dismissed without prejudice; or
- 6) that any portion of the offending party's pleadings relating to that issue be stricken and, if thereby made appropriate, judgment be entered as to the issue.
- g) At the request of any party, the Administrative Law Judge may exclude all witnesses from the hearing room, except that each party or a representative of a party, in addition to legal counsel, shall be allowed to remain.

#### Section 1455.560 Administrative Law Judges EMERGENCY

In any contested case, the Commissioner shall employ an attorney, licensed to practice law in Illinois, to serve as an Administrative Law Judge. The Administrative Law Judge has the authority to conduct a hearing, take all necessary action to avoid delay, maintain order, and insure the development of a clear and complete record. The Administrative Law Judge shall have all powers necessary to conduct a hearing, including the power to:

- a) Administer oaths and affirmations;
- b) Regulate the course of hearings, set the time and place for continued hearings, fix time for filing of documents, provide for the taking of testimony by deposition if necessary, and generally conduct the

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

proceeding according to generally recognized administrative law;

- c) Examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitious or cumulative testimony, and set reasonable limits on the amount of time each witness may testify;

- d) Rule upon offers of proof and receive relevant evidence;
- e) Direct parties to appear and confer for the settlement or simplification of issues, and otherwise conduct prehearing conferences;
- f) Dispose of procedural requests or similar matters;
- g) Continue the hearing from time to time when necessary;
- h) Prepare for the Board written findings of fact, conclusions of law and Recommended Action for submission to the Commissioner.

#### Section 1455.570 Disqualification of an Administrative Law Judge EMERGENCY

a) Any interested party to a proceeding may, following notice and an opportunity to object, move to disqualify the assigned Administrative Law Judge on the basis of bias or conflict of interest. An adverse ruling or rulings rendered against the party or its representative in any previous matters shall not, in and of themselves, constitute sufficient grounds for disqualification under this Section. The Commissioner shall determine this issue as part of the record of the case. When an Administrative Law Judge is disqualified, or it becomes impractical for him/her to continue, another presiding officer may be assigned unless it is further shown that substantial bias will result from the assignment.

- b) No motion for disqualification shall be permitted after any substantive ruling has been made on the case by the Administrative Law Judge, unless it pertains to a conflict of interest not previously disclosed.

#### Section 1455.580 Examination by the Board EMERGENCY

- a) Any member of the Board, or any Administrative Law Judge, may examine any witness.
- b) Either party may object to specific questions asked by the Board or Administrative Law Judge, but it shall not be objectionable that a question violates a technical rule of evidence. For purposes of this Subpart, hearsay is a substantive, rather than a technical, rule of evidence.

#### Section 1455.590 Burden of Proof EMERGENCY

- a) The burden of proof rests with the Agency in all cases instituted by

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

the Agency by the filing of a Complaint. A recommendation for discipline may be made by the Board or Administrative Law Judge only when the Agency establishes by clear and convincing evidence that the allegations of the Complaint are true.

- b) The burden of proof in all cases instituted by the filing of a Petition for Hearings rests with the petitioner. The petitioner must prove by a preponderance of the evidence that the license should be granted or restored, or that the intended adverse action should not be taken.

**Section 1455.600 Motions****EMERGENCY**

- a) Prior to the commencement of the hearing, any party may present written motions that are relevant and directed to matters of concern to the proceedings. All motions shall be filed with the Board and served upon all parties, and shall contain:
  - 1) A specific statement of the matter of concern,
  - 2) A statement of the specific relief or order sought,
  - 3) A statement of the facts and authority that support the relief or order sought.

- b) Motions shall be acted on by the Board or an Administrative Law Judge duly appointed for the proceeding. A written motion will be disposed of by written order and on notice to all parties.

**Section 1455.610 Continuances****EMERGENCY**

- a) A request for continuance of a hearing shall be subject to the discretion of the hearing officer.

- 1) Such continuance may be granted, for good cause shown, provided the request is received by the hearing officer and each party or authorized representative of record not less than 5 days prior to the latest hearing date unless good cause for a continuance is shown prior to or during the hearing or between hearing dates due to the absence of material evidence, sudden unavailability of counsel, sudden illness of a party or an essential witness, or similar reasons. Such request shall be in writing, supported by an affidavit, and shall set forth alleged grounds for the request.

- 2) Oral requests for continuances shall not be granted unless made during the hearing for good cause.

- 3) Good cause includes, but is not limited to, service in the armed forces or serious illness relating to either party, that party's authorized representative of record, or essential witnesses, or sudden unavailability of counsel.

- b) A continuance, when granted, shall state a date certain, not more than 60 days from the prior scheduled hearing date, when the hearing shall

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

reconvene.

**Section 1455.620 Evidence****EMERGENCY**

- a) The rules of evidence and privilege as applied to civil cases in the circuit courts of this State shall be followed. However, evidence not admissible under such rules of evidence may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Immaterial, irrelevant, or unduly repetitious material shall be excluded. A copy of the whole or any part of an admissible book, record, paper, or memorandum of the Agency that is made by photostatic or other method of accurate and permanent reproduction may be admitted in evidence at the hearing without further proof of the accuracy or authenticity of such copy. Objections to evidentiary offers may be made and shall be noted in the record.

- b) Official notice may be taken of matters of which circuit courts of this State may take judicial notice. In addition, official notice may be taken of generally recognized technical or scientific facts within the Agency's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The Agency's experience, technical competence and specialized knowledge may be utilized in the evaluation of evidence.



OFFICE OF BANKS AND REAL ESTATE

NOTICE OF EMERGENCY RULES

**Section 1455.APPENDIX A Caption for a Case Filed by the Agency  
EMERGENCY**STATE OF ILLINOIS  
OFFICE OF BANKS AND REAL ESTATE  
REAL ESTATE APPRAISAL ADMINISTRATION DIVISIONOFFICE OF BANKS AND REAL ESTATE )  
REAL ESTATE APPRAISAL ADMINISTRATION DIVISION )  
of the State of Illinois, )

Complainant

v.

(NAME OF RESPONDENT)  
(License Number),

Respondent.

No.

**COMPLAINT**

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF EMERGENCY RULES

**Section 1455.APPENDIX B Caption for a Case Filed by the Petitioner  
EMERGENCY**STATE OF ILLINOIS  
OFFICE OF BANKS AND REAL ESTATE  
REAL ESTATE APPRAISAL ADMINISTRATION DIVISIONIn RE the Petition for Restoration of )  
) No.(NAME OF PETITIONER)  
(License Number),

Petitioner

**PETITION FOR HEARING**

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Diagnosis Related Grouping (DRG) Prospective Payment System (PPS)
- 2) Code Citation: 89 Ill. Adm. Code 149
- 3) Section Numbers: Emergency Action:  
149.50 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 90-588
- 5) Effective Date: July 1, 1998
- 6) If these Emergency Amendments are to expire before the end of the 150-day period, please specify the date on which it is to expire: Not Applicable
- 7) Date Filed in Agency's Principal Office: July 1, 1998
- 8) Reason for Emergency: These emergency amendments are being filed pursuant to the Governor's fiscal year 1999 budget plan and the enactment of the State's budget by the Legislature. Under Public Act 90-588, Medicaid reimbursable services in children's hospitals are more fully defined and limitations by date are being placed upon any general care hospital seeking Medicaid reimbursement under licensure as a children's hospital. Emergency rulemaking is specifically authorized for the implementation of these reimbursement changes for fiscal year 1999 by Section 5-45 of Public Act 90-588.

9) Complete Description of the Subjects and Issues Involved: These emergency amendments to the Department's rules regarding hospital services are intended to add clarifications concerning the defining characteristics of a children's hospital and the services rendered by such hospitals that are reimbursable under the Medical Assistance program. The amendments also specify that any general care hospital seeking separate licensure for a section of the hospital that is devoted exclusively to providing services for children must obtain that licensure as a children's hospital before September 30, 1998. Since services in a children's hospital are generally more costly than similar services in other hospital environments, these new provisions are necessary to allow budgetary stability and predictability considering the constraints and limitations of the Department's appropriations for medical services.

The budgetary implications of these changes are not foreseeable at this time because it is not known how many, if any, general care hospitals will choose to seek licensure as a children's hospital. However, the Department is not anticipating any significant budgetary changes on the

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

basis of these emergency amendments.

- 10) Are there any other proposed amendments pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These emergency amendments do not affect units of local government.
- 12) Information and questions regarding these Emergency Amendments shall be directed to:

Name: Joanne Jones  
Address: Bureau of Rules and Regulations  
Illinois Department of Public Aid  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763  
Telephone: (217) 524-0081

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF PUBLIC AID  
NOTICE OF EMERGENCY AMENDMENTS

a maximum of 150 days; amended at 18 Ill. Reg. 3378, effective February 25, 1994; amended at 19 Ill. Reg. 10674, effective July 1, 1995; amended at 21 Ill. Reg. 2238, effective February 3, 1997; emergency amendment at 22 Ill. Reg. **13064**, effective July 1, 1998, for a maximum of 150 days.

**Section 149.50 Hospital Services Subject to and Excluded from the DRG Prospective Payment System**  
**EMERGENCY**

- a) Hospital Services Subject to the DRG Prospective Payment System
- 1) Except for services described in Section 149.25(a)(4) and subsection (b)(2) below, all covered inpatient hospital services furnished to persons receiving coverage under the Medicaid Program are paid for under the DRG PPS.
  - 2) Inpatient hospital services will not be paid for under the DRG PPS under any of the following circumstances:

- A) The services are furnished by a hospital (or distinct part hospital unit) explicitly excluded from the DRG PPS under subsections (c) through (d) below.
- B) The services are furnished by a nonparticipating out-of-state hospital (as described in subsection (c)(5) below).
- C) The services are furnished by a hospital that elects to be reimbursed under special arrangements (as described in subsection (c)(6) below) in the transition period of DRG PPS implementation.
- D) The services are furnished by a sole community hospital (as defined in Section 149.125(b)) that has elected to be exempted from the DRG PPS in accordance with subsection (c)(7) below.
- E) The payment for services is covered by a health maintenance organization (HMO).

- b) Excluded and Exempted Hospitals and Hospital Units: General Rules
- 1) Criteria. A hospital will be excluded from the DRG PPS if it meets the criteria for one or more of the classifications described in subsection (c) below.
  - 2) Alternate Reimbursement System. All excluded hospitals (and excluded distinct part hospital units, as described in subsection (d) below) are reimbursed under the Alternate Reimbursement Systems set forth in 89 Ill. Adm. Code 148.250 through 148.300 with the exception of those hospitals described in subsection (c)(8) below. The hospitals described in subsection (c)(8) below are reimbursed in accordance with 89 Ill. Adm. Code 148.160 or 148.170, as appropriate.
  - c) Excluded Hospitals: Classifications. Hospitals that meet the requirements for the classifications set forth in this Section may not be reimbursed under the DRG Prospective Payment System.
- 1) Psychiatric Hospitals. A psychiatric hospital must:

DEPARTMENT OF PUBLIC AID  
NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER d: MEDICAL PROGRAMS

PART 149  
DIAGNOSIS RELATED GROUPING (DRG) PROSPECTIVE PAYMENT SYSTEM (PPS)

- Section
- 149.5 Diagnosis Related Grouping (DRG) Prospective Payment System (PPS)
- 149.10 Applicability of Other Provisions
- 149.25 General Provisions
- 149.50 Hospital Services Subject to and Excluded from the DRG Prospective Payment System

- EMERGENCY**
- 149.75 Conditions for Payment Under the DRG Prospective Payment System
- 149.100 Basic Methodology for Determining DRG Prospective Payment Rates
- 149.105 Payment For Outlier Cases
- 149.125 Special Treatment of Certain Facilities
- 149.140 Methodology for Determining Primary Care Access Health Care Education Payments (Repealed)

- 149.150 Payments to Hospitals Under the DRG Prospective Payment System
- 149.175 Payments to Contracting Hospitals (Repealed)
- 149.200 Admitting and Clinical Privileges (Repealed)
- 149.205 Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Repealed)
- 149.225 Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Repealed)
- 149.250 Contract Monitoring (Repealed)
- 149.275 Transfer of Recipients (Repealed)
- 149.300 Validity of Contracts (Repealed)
- 149.305 Termination of ICARE Contracts (Repealed)
- 149.325 Hospital Services Procurement Advisory Board (Repealed)

**AUTHORITY:** Implementing Article III of the Illinois Health Finance Reform Act [20 ILCS 2215/Art. III] and implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

**SOURCE:** Recodified from 89 Ill. Adm. Code 140.940 thru 140.972 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. at 12095, effective July 15, 1988; amended at 13 Ill. Reg. 554, effective January 1, 1989; amended at 13 Ill. Reg. 15070, effective September 15, 1989; amended at 15 Ill. Reg. 1826, effective January 28, 1991; emergency amendment at 15 Ill. Reg. 16308, effective November 1, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 6195, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11937, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14733, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19868, effective December 7, 1992; amended at 17 Ill. Reg. 3217, effective March 1, 1993; emergency amendment at 17 Ill. Reg. 17275, effective October 1, 1993, for



## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

- A) Be primarily engaged in providing, by or under the supervision of a psychiatrist, psychiatric services for the diagnosis and treatment of mentally ill persons; and
- B) Be enrolled with the Department as a psychiatric hospital to provide inpatient psychiatric services (category of service 21) and have a Provider Agreement to participate in the Medicaid Program.

## 2) Rehabilitation Hospitals. A rehabilitation hospital must:

- A) Hold a valid license as a physical rehabilitation hospital; and
- B) Be enrolled with the Department as a rehabilitation hospital to provide inpatient rehabilitation services (category of service 22) and have a Provider Agreement to participate in the Medicaid Program.

## 3) Children's Hospitals. A children's hospital must:

- A) Be a hospital devoted exclusively to caring for children. A general care hospital which includes a facility devoted exclusively to caring for children that is separately licensed as a hospital by a municipality before September 30, 1998, shall be considered a children's hospital to the degree that the hospital's Medicaid care is provided to children. A children's hospital licensed by a municipality shall be reimbursed for all inpatient and outpatient services rendered to persons who are under 18 years of age, with the exception of obstetric, normal newborn nursery, psychiatric and rehabilitation, regardless of the physical location within the hospital complex where the care is rendered; and

- B) Have a Provider Agreement to participate in the Medicaid Program.

## 4) Long Term Stay Hospitals. A long term stay hospital must:

- A) Not be a psychiatric hospital, as described in subsection (c)(1) above, a rehabilitation hospital as described in subsection (c)(2) above, or a children's hospital as described in subsection (c)(3) above and must have an average length of inpatient stay greater than 25 days: as computed by dividing the number of total inpatient days (less leave or pass days) by the number of total discharges for the most recent State fiscal year for which complete information is available; and

- B) Have a Provider Agreement to participate in the Medicaid Program.

- 5) Hospitals Outside of Illinois that are Exempt from Cost Reporting Requirements. A hospital is excluded from the DRG PPS if it meets the following definition: a nonparticipating out-of-state hospital is an out-of-state hospital that provides fewer than 100 Illinois Medicaid days annually, that does not elect to be reimbursed under this Part (the DRG Prospective Payment System),

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

- and that does not file an Illinois Medicaid cost report.
- 6) Hospitals Reimbursed Under Special Arrangements. Hospitals that, on August 31, 1991, had a contract with the Department under the ICARE Program, pursuant to Section 3-4 of the Illinois Health Finance Reform Act, may elect to continue to be reimbursed at rates stated in such contracts for general and specialty care for services provided on or after September 1, 1991, subject to the limitations described in 89 Ill. Adm. Code 148.40(f) through 148.40(h).

- 7) Sole Community Hospitals. Hospitals described in Section 149.125(b), which have elected to be exempted from the DRG PPS, subject to the limitations described in 89 Ill. Adm. Code 148.40(f) through 148.40(h).

- 8) County-Owned Hospitals and hospitals organized under the University of Illinois Hospital Act. County-owned hospitals located in an Illinois county with a population greater than three million and hospitals organized under the University of Illinois Hospital Act are excluded from the DRG system and are reimbursed under unique hospital-specific reimbursement methodologies as described in 89 Ill. Adm. Code 148.160 and 148.170.

## d) Excluded Distinct Part Hospital Units.

- 1) Distinct Part Psychiatric Units. With the exception of those hospitals described in subsections (c)(1) through (c)(8) above, a hospital enrolled with the Department to provide inpatient psychiatric services (category of service 21) shall be excluded from the DRG PPS for the reimbursement of such inpatient psychiatric services and shall be reimbursed in accordance with 89 Ill. Adm. Code 148.270(b).

- 2) Distinct Part Rehabilitation Units. With the exception of those hospitals described in subsections (c)(1) through (c)(8) above, a hospital enrolled with the Department to provide inpatient rehabilitation services (category of service 22) shall be excluded from the DRG PPS for the reimbursement of such inpatient rehabilitation services and shall be reimbursed in accordance with 89 Ill. Adm. Code 148.270(b).

(Source: Amended by emergency rulemaking at 22 Ill. Reg. effective July 1, 1998, for a maximum of 150 days)

13084

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Hospital Services2) Code Citation: 89 Ill. Adm. Code 1483) Section Numbers: Emergency Action:

148.120 Amendment

148.140 Amendment

148.295 Amendment

148.296 Amendment

148.297 Amendment

148.298 New Section

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 90-5885) Effective Date: July 1, 19986) If these Emergency Amendments are to expire before the end of the 150-day period, please specify the date on which it is to expire: Not Applicable7) Date Filed in Agency's Principal Office: July 1, 1998

8) Reason for Emergency: These emergency amendments are being filed pursuant to the Governor's fiscal year 1999 budget plan and the enactment of the State's budget by the Legislature. These amendments are intended to provide necessary rate increases to support outpatient reform and to maintain access to essential medical services concerning the critical hospital adjustment payment program, the supplemental critical hospital adjustment payment program and pediatric outpatient care. The amendments are also necessary to establish a new program for pediatric inpatient payment adjustments for recently established children's hospitals. Emergency rulemaking is specifically authorized for the implementation of these reimbursement changes for fiscal year 1999 by Section 5-45 of Public Act 90-588.

9) Complete Description of the Subjects and Issues Involved: These emergency amendments to the Department's rules governing reimbursement for hospital services are designed to improve funding for necessary medical care for public assistance recipients. The changes will affect the Critical Hospital Adjustment Payment program (CHAP), the Supplemental Critical Hospital Adjustment Payment program (SCHAP), and pediatric outpatient adjustment payments. The changes also create a new program for pediatric inpatient adjustment payments and provide for outpatient reform. Additionally, emergency changes are being made to Section 148.120 to add clarifications regarding the defining characteristics of a children's hospital; these changes are necessary companion amendments to similar changes at 89 Ill. Adm. Code 149.50.

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

For CHAP (Section 148.295), some reimbursement changes will be provided, but any spending increases that result are expected to be offset by a reduction in inpatient services utilization. This decrease in inpatient care is the result of the current trend for shorter inpatient hospitalization stays and increases in the number of outpatient services rendered.

The emergency changes concerning SCHAP (Section 148.296) will modify qualification criteria to accommodate recently established children's hospitals. These changes are necessary to maintain access to inpatient services and are expected to increase the Department's annual spending for these services by approximately \$5 million.

For pediatric outpatient adjustment payments (Section 148.297), the emergency amendments will result in changes in reimbursements in order to better maintain access to outpatient services provided through children's hospitals. These changes are expected to result in an annual budgetary increase of approximately \$12.2 million.

The emergency changes also establish a new program for pediatric inpatient adjustment payments for recently established children's hospitals (new Section 148.298). These changes are necessary because other quarterly adjustment payments for children's hospitals are limited to such hospitals already in existence. These changes will provide reimbursement parity for the new hospitals and are expected to result in an increase in the Department's annual expenditures of approximately \$1.8 million.

Lastly, the emergency amendments provide measures for outpatient reform in Section 148.140. This plan for outpatient reform is the result of agreements between the Department and an outpatient reform workgroup that included hospital representation. These changes will both increase the number of outpatient billing groups from four to 12, and in the aggregate, increase outpatient spending. These changes are needed to increase the responsiveness of the Department's outpatient reimbursement methodology to the type of procedures being provided, and to cover a higher percentage of a hospital's costs in providing outpatient services. These emergency amendments are expected to result in an annual expenditure of \$70.7 million. Companion emergency amendments on outpatient billing group changes and outpatient reform are also being filed at 89 Ill. Adm. Code 146.125 and 146.130 concerning services provided by ambulatory surgical treatment centers.

10) Are there any other proposed amendments pending on this Part? Yes

|                       |                        |                                   |
|-----------------------|------------------------|-----------------------------------|
| <u>Section Number</u> | <u>Proposed Action</u> | <u>Illinois Register Citation</u> |
| 148.82                | Amendment              | May 15, 1998 (22 Ill. Reg. 8356)  |

11) Statement of Statewide Policy Objectives: These emergency amendments do

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

not affect units of local government.

- 12) Information and questions regarding these Emergency Amendments shall be directed to:

Joanne Jones  
Bureau of Rules and Regulations  
Illinois Department of Public Aid  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763  
(217) 524-0081

The full text of the Emergency Amendments begins on the next page:

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER d: MEDICAL PROGRAMS

PART 148  
HOSPITAL SERVICES

|           |   |
|-----------|---|
| Section   | Hospital Services   |
| 148.10    | Participation   |
| 148.20    | Definitions and Applicability   |
| 148.25    | General Requirements  |
| 148.30    | Special Requirements  |
| 148.40    | Covered Hospital Services   |
| 148.50    | Services Not Covered as Hospital Services   |
| 148.60    | Limitation On Hospital Services   |
| 148.70    | Organ Transplants Services Covered Under Medicaid (Repealed)  |
| 148.80    | Organ Transplant Services   |
| 148.82    | Heart Transplants (Repealed)  |
| 148.90    | Liver Transplants (Repealed)  |
| 148.100   | Bone Marrow Transplants (Repealed)  |
| 148.110   | Disproportionate Share Hospital (DSH) Adjustments   |
| 148.120   | Outlier Adjustments for Exceptionally Costly Stays  |
| 148.130   | Hospital Outpatient and Clinic Services   |
| EMERGENCY |   |
| 148.140   | Public Law 103-66 Requirements  |
| 148.150   | Payment Methodology for County-Owned Hospitals in an Illinois County with a Population of Over Three Million          |
| 148.160   | Payment Methodology for Hospitals Organized Under the University of Illinois Hospital Act                             |
| 148.170   | Supplemental Disproportionate Share Payment Methodology for Hospitals Organized Under the Town Hospital Act           |
| 148.175   | Payment for Pre-operative Days, Patient Specific Orders, and Services Which Can Be Performed in an Outpatient Setting |
| 148.180   | Copayments  |
| 148.190   | Alternate Reimbursement Systems   |
| 148.200   | Filing Cost Reports   |
| 148.210   | Pre September 1, 1991 Admissions  |
| 148.220   | Admissions Occurring on or after September 1, 1991  |
| 148.230   | Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements                       |
| 148.240   | Determination of Alternate Payment Rates to Certain Exempt Hospitals  |
| 148.250   | Calculation and Definitions of Inpatient Per Diem Rates   |
| 148.260   | Determination of Alternate Cost Per Diem Rates for All Hospitals;   |
| 148.270   | Payment Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other Hospitals                        |
| 148.280   | Reimbursement Methodologies for Children's Hospitals and Hospitals  |



## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

## Reimbursed Under Special Arrangements

148.285 Excellence in Academic Medicine Payments

148.290 Adjustments and Reductions to Total Payments

148.295 Critical Hospital Adjustment Payment (CHAP)

## EMERGENCY

148.296 Supplemental Critical Hospital Adjustment Payments (SCHAP)

## EMERGENCY

148.297 Pediatric Outpatient Adjustment Payments

## EMERGENCY

148.298 Pediatric Inpatient Adjustment Payments

## EMERGENCY

148.300 Payment

148.310 Review Procedure

148.320 Alternatives

148.330 Exemptions

148.340 Subacute Alcoholism and Substance Abuse Treatment Services

148.350 Definitions

148.360 Types of Subacute Alcoholism and Substance Abuse Treatment Services

148.368 Volume Adjustment (Repealed)

148.370 Payment for Subacute Alcoholism and Substance Abuse Treatment Services

148.380 Rate Appeals for Subacute Alcoholism and Substance Abuse Treatment Services

148.390 Hearings

148.400 Special Hospital Reporting Requirements

AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act [20 ILCS 2215/Art. III] and implementing and authorized by Articles III, IV, V, VI, and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 10502, effective July 1, 1991, for a maximum of 150 days; emergency expired October 29, 1991; emergency amendment at 15 Ill. Reg. 12005, effective August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11335, effective June 30, 1992, for a maximum of 150 days; emergency expired November 27, 1992; emergency amendment at 16 Ill. Reg. 11942, effective July 10, 1992, for a maximum of 150 days; emergency amendment

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19873, effective December 7, 1992; amended at 17 Ill. Reg. 131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. 7912, effective May 31, 1996; emergency amendment at 20 Ill. Reg. 9281, effective July 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 12510, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10147, effective August 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13349, effective September 23, 1997; emergency amendment at 21 Ill. Reg. 13675, effective September 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16161, effective November 26, 1997; amended at 22 Ill. Reg. 1408, effective December 29, 1997; amended at 22 Ill. Reg. 3083, effective January 26, 1998; amended at 22 Ill. Reg. 11514, effective June 22, 1998; emergency amendment at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days.

# Section 148.120 Disproportionate Share Hospital (DSH) Adjustments EMERGENCY

Disproportionate Share Hospital (DSH) adjustments for inpatient services provided prior to October 1, 1993, shall be determined and paid in accordance with the statutes and administrative rules governing the time period when the services were rendered. The Department shall make an annual determination of those hospitals qualified for adjustments under this Section effective October 1, 1993, and each October 1, thereafter unless otherwise noted.

a) Qualified Disproportionate Share Hospitals (DSH). For inpatient services provided on or after October 1, 1993, the Department shall make adjustment payments to hospitals which are deemed as disproportionate share by the Department. A hospital may qualify for

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

a DSH adjustment in one of the following ways:

- 1) The hospital's Medicaid inpatient utilization rate, as defined in subsection (k)(5) of this Section, is at least one half standard deviation above the mean Medicaid utilization rate, as defined in subsection (k)(3) of this Section.
- 2) The hospital's low income utilization rate exceeds 25 per centum. For this alternative, payments for all patient services (not just inpatient) for Medicaid, Family and Children Assistance (formerly known as General Assistance), Aid to the Medically Indigent (AMI) and/or any local or state government-funded care, must be counted as a percentage of all net patient service revenue. To this percentage, the percentage of total inpatient charges attributable to inpatient charges for charity care (less payments for GA and AMI inpatient hospital services, and/or any local or state government-funded care) must be added.
- 3) Illinois hospitals that, on July 1, 1991, had a Medicaid inpatient utilization rate, as defined in subsection (k)(5) of this Section, that was at least the mean Medicaid inpatient utilization rate, as defined in subsection (k)(3) of this Section, and which were located in a planning area with one-third or fewer excess beds as determined by the Illinois Health Facilities Planning Board (77 Ill. Adm. Code 1100), and that, as of June 30, 1992, were located in a federally designated Health Manpower Shortage Area (42 CFR 5, 1989).
- 4) Illinois hospitals that:
  - A) Have a Medicaid inpatient utilization rate, as defined in subsection (k)(5) of this Section, which is at least the mean Medicaid inpatient utilization rate, as defined in subsection (k)(3) of this Section, and
  - B) Have a Medicaid obstetrical inpatient utilization rate, as defined in subsection (k)(6) of this Section, that is at least one standard deviation above the mean Medicaid obstetrical inpatient utilization rate, as defined in subsection (k)(4) of this Section.
- 5) Any children's hospital, as defined in 89 Ill. Adm. Code 149.50(c)(3) which means a hospital devoted exclusively to caring for children--A--hospital--which--includes--a--facility--devoted exclusively to caring for children--that--is--separately--licensed--as a--hospital--by--a--municipality--shall--be--considered--a--children's hospital--to--the--degree--that--the--hospital's--Medicaid--care--is provided--to--children.
- b) In addition, to be deemed a DSH hospital, a hospital must provide the Department, in writing, with the names of at least 2 obstetricians with staff privileges at the hospital who have agreed to provide obstetric services to individuals entitled to such services under a State Medicaid plan. In the case of a hospital located in a rural area (that is, an area outside of a Metropolitan Statistical Area, as defined by the Executive Office of Management and Budget), the term

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

"obstetrician" includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures. This requirement does not apply to a hospital in which the inpatients are predominantly individuals under 18 years of age; or does not offer nonemergency obstetric services as of December 22, 1987. Hospitals that do not offer nonemergency obstetrics to the general public, with the exception of those hospitals described in 89 Ill. Adm. Code 149.50(c)(1) through (c)(4), must submit a statement to that effect.

c) In making the determination described in subsections (a)(1) and (a)(4)(A) above, the Department shall utilize:

- 1) The hospital's final audited cost report for the hospital's base fiscal year. Medicaid inpatient utilization rates, as defined in subsection (k)(5) of this Section, which have been derived from final audited cost reports, are not subject to the Review Procedure described in Section 148.310, with the exception of errors in calculation.
- 2) In the absence of a final audited cost report for the hospital's base fiscal year, the Department shall utilize the hospital's unaudited cost report for the hospital's base fiscal year. Due to the unaudited nature of this information, hospitals shall have the opportunity to submit a corrected cost report for the determination described in subsections (a)(1) and (a)(4)(A) above. Submittal of a corrected cost report in support of subsections (a)(1) and (a)(4)(A) above must be received no later than the first day of July preceding the DSH determination year for which the hospital is requesting consideration of such corrected cost report for the determination of DSH qualification. Corrected cost reports which are not received in compliance with these time limitations will not be considered for the determination of the hospital's Medicaid inpatient utilization rate as described in subsection (k)(5) of this Section.

- A) Hospital's Medicaid inpatient utilization rates, as defined in subsection (k)(5) of this Section, which have been derived from unaudited cost reports, are not subject to the Review Procedure described in Section 148.310, with the exception of errors in calculation. Pursuant to subsection (c)(2) above, hospitals shall have the opportunity to submit corrected cost report information prior to the Department's final DSH determination.
- B) In the event a subsequent final audited cost report reflects a Medicaid inpatient utilization rate, as described in subsection (k)(5) of this Section, which is lower than the Medicaid inpatient utilization rate derived from the unaudited cost report utilized for the DSH determination, the Department shall recalculate the Medicaid inpatient utilization rate based upon the final audited cost report, and recoup any overpayments made.
- 3) Certain types of inpatient days of care provided to Title XIX



## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

recipients are not available from the cost report, i.e., Medicare/Medicaid crossover claims, out-of-state Title XIX Medicaid utilization levels, Medicaid Health Maintenance Organization (HMO) days, hospital residing long term care days, and Department of Alcohol and Substance Abuse (DASA) Medicaid days. To obtain Medicaid utilization levels in these instances, the Department shall utilize:

- A) Medicare/Medicaid Crossover Claims.
  - i) For DSH determination years on or after October 1, 1996, the Department will utilize the Department's paid claims data adjudicated through the last day of June preceding the DSH determination year for each hospital's base fiscal year. Provider logs as described in the following subsection (c)(3)(A)(ii) will not be used in the determination process for DSH determination years on or after October 1, 1996.
  - ii) For DSH determination years prior to October 1, 1996, hospitals may submit additional information to document Medicare/Medicaid crossover days that were not billed to the Department due to a determination that the Department had no liability for deductible or coinsurance amounts. That information must be submitted in log form. The log must include a patient account number or medical record number, patient name, Medicaid recipient identification number, Medicare identification number, date of admission, date of discharge, the number of covered days, and the total number of Medicare/Medicaid crossover days. That log must include all Medicare/Medicaid crossover days billed to the Department and all Medicare/Medicaid crossover days which were not billed to the Department for services provided during the hospital's base fiscal year. If a hospital does not submit a log of Medicare/Medicaid crossover days that meets the above requirements, the Department will utilize the Department's paid claims data adjudicated through the last day of June preceding the DSH determination year for the hospital's applicable base fiscal year.
- B) Out-of-state Title XIX Utilization Levels. Hospital statements and verification reports from other states will be required to verify out-of-state Medicaid recipient utilization levels. The information submitted must include only those days of care provided to out-of-state Medicaid recipients during the hospital's base fiscal year.
- C) HMO days. The Department will utilize the Department's HMO claims data available to the Department as of the last day of June preceding the DSH determination year for each hospital's base fiscal year to determine the number of

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

- inpatient days provided to recipients enrolled in an HMO.
- D) Hospital Residing Long Term Care Days. The Department will utilize the Department's paid claims data adjudicated through the last day of June preceding the DSH determination year for each hospital's base fiscal year to determine the number of hospital residing long term care days provided to recipients.
  - E) DASA Days. The Department will utilize the Department's DASA paid claims data available to the Department as of the last day of June preceding the DSH determination year for each hospital's base fiscal year to determine the number of inpatient DASA days provided.
  - d) Hospitals may apply for DSH status under subsection (a)(2) of this Section by submitting an audited certified financial statement for the hospital's base fiscal year. The Department of Mental Health and Developmental Disabilities must submit a statement, signed by the Director of that agency, certifying the accuracy of the data submitted for facilities operated by that agency. The statements must contain the following breakdown of information prior to submittal to the Department for consideration:
    - 1) Total hospital net revenue for all patient services, both inpatient and outpatient, for the hospital's base fiscal year.
    - 2) Total payments received directly from State and local governments for all patient services, both inpatient and outpatient, for the hospital's base fiscal year.
    - 3) Total gross inpatient hospital charges for charity care (this must not include contractual allowances, bad debt or discounts, except contractual allowances and discounts for Family and Children Assistance, formerly known as General Assistance, and AMI patients), for the hospital's base fiscal year.
    - 4) Total amount of the hospital's gross charges for inpatient hospital services for the hospital's base fiscal year.
  - e) With the exception of cost-reporting children's hospitals in contiguous states that provide 100 or more inpatient days of care to Illinois program participants, only those cost-reporting hospitals located in states contiguous to Illinois that qualify for DSH in the state in which they are located based upon the Federal definition of a DSH hospital, as defined in Section 1923(b)(1) of the Social Security Act, may qualify for DSH hospital adjustments under this Section. For purposes of determining the Medicaid inpatient utilization rate, as described in subsection (k)(5) of this Section and as required in Section 1923(b)(1) of the Social Security Act, out-of-state hospitals will be measured in relationship to one standard deviation above the mean Medicaid inpatient utilization rate in their state. Out-of-state hospitals that do not qualify by the Medicaid inpatient utilization rate from their state may submit an audited certified financial statement as describe in subsection (d) above. Payments to out-of-state hospitals will be allocated using the same method as



## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

described in subsection (g) of this Section.

f) Time Limitation Requirements for Additional Information.

1) The information required in subsections (a)(2), (c), (d) and (e) of this Section must be received no later than the first day of July preceding the DSH determination year for which the hospital is requesting consideration of such information for the determination of DSH qualification. Information required in this Section which is not received in compliance with these limitations will not be considered for the determination of those hospitals qualified for DSH adjustments.

2) The information required in subsection (b) of this Section must be received within 30 calendar days after receipt of notification from the Department that the information must be submitted. Information required in this Section which is not received in compliance with these limitations will not be considered for the determination of those hospitals qualified for DSH adjustments.

g) Inpatient Payment Adjustments to DSH Hospitals. The adjustment payments required by subsection (a) above shall be calculated annually as follows:

1) Five Million Dollar Fund Adjustment for hospitals defined in Section 148.25(b)(1).

A) Hospitals qualifying as DSH hospitals under subsection (a)(1) of this Section that have a Medicaid inpatient utilization rate, as described in subsection (k)(5) of this Section, which is at least one standard deviation above the mean Medicaid inpatient utilization rate, as described in subsection (k)(3) of this Section, and hospitals qualifying as DSH hospitals under subsection (a)(2) of this Section will receive an add-on payment to their inpatient rate.

B) The distribution method for the add-on payment described in subsection (g)(1)(A) above is based upon a fund of \$5 million. All hospitals qualifying under subsection (g)(1)(A) above will receive a \$5 per day add-on to their current rate. The total cost of this adjustment is calculated by multiplying each hospital's most recent completed fiscal year Medicaid inpatient utilization data (adjusted based upon historical utilization and projected increases in utilization) by \$5. The total dollar amount of this calculation is then subtracted from the \$5 million fund.

C) The remaining fund balance is then distributed to the hospitals that qualify under subsection (a)(1) that have a Medicaid inpatient utilization rate, as described in subsection (k)(5) of this Section, which is at least one standard deviation above the mean Medicaid inpatient utilization rate, above in proportion to the percentage by which the hospital's Medicaid inpatient utilization rate exceeds one standard deviation above the State's Medicaid

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

inpatient utilization rate, as described in subsection (k)(3) of this Section. This is done by finding the ratio of each hospital's percent Medicaid utilization to the State's mean plus one standard deviation percent Medicaid value. These ratios are then summed and each hospital's proportion of the total is calculated. These proportional values are then multiplied by each hospital's most recent completed fiscal year Medicaid inpatient utilization data (adjusted based upon historical utilization and projected increases in utilization). These weighted values are summed and each hospital's proportion of the summed weighted value is calculated. Each individual hospital's proportional value is then multiplied against the \$5 million pool of money available after the \$5 per day base add-on has been subtracted.

D) The total dollar amount calculated for each qualifying hospital under subsection (g)(1)(C) above, plus the initial \$5 per day add-on amount calculated for each qualifying hospital under subsection (g)(1)(B) above, is then divided by the Medicaid inpatient utilization data (adjusted based upon historical utilization and projected increases in utilization) to arrive at per day add-on value. Hospitals qualifying under subsection (a)(2) of this Section, will receive the minimum adjustment of \$5 per inpatient day. The adjustments calculated under this subsection are subject to the limitations described in subsection (j) of this Section.

2) Medicaid Percentage Adjustment for hospitals defined in Section 148.25(b)(1), excluding hospitals defined in Section 148.25(b)(1)(A).

A) In addition to the adjustment methodology described in subsection (g)(1) above, all DSH hospitals described in subsection (a)(1), (2), (3) (4), and (5) of this Section shall receive a payment adjustment which shall be calculated annually as follows:

B) The payment adjustment shall be calculated based upon the hospital's Medicaid inpatient utilization rate, as defined in subsection (k)(5) of this Section, and subject to subsections (h) and (i) below, as follows:

- i) Hospitals with a Medicaid inpatient utilization rate below the mean Medicaid inpatient utilization rate shall receive a payment adjustment of \$25;
- ii) Hospitals with a Medicaid inpatient utilization rate that is equal to or greater than the mean Medicaid inpatient utilization rate but less than one standard deviation above the mean Medicaid inpatient utilization rate shall receive a payment adjustment of \$25 plus \$1 for each one percent that the hospital's Medicaid inpatient utilization rate exceeds the mean

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

- Medicaid inpatient utilization rate;
- iii) Hospitals with a Medicaid inpatient utilization rate that is equal to or greater than one standard deviation above the mean Medicaid inpatient utilization rate but less than 1.5 standard deviations above the mean Medicaid inpatient utilization rate shall receive a payment adjustment of \$40 plus \$7 for each one percent that the hospital's Medicaid inpatient utilization rate exceeds one standard deviation above the mean Medicaid inpatient utilization rate; and
- iv) Hospitals with a Medicaid inpatient utilization rate that is equal to or greater than 1.5 standard deviations above the mean Medicaid inpatient utilization rate shall receive a payment adjustment of \$90 plus \$2 for each one percent that the hospital's Medicaid inpatient utilization rate exceeds 1.5 standard deviations above the mean Medicaid inpatient utilization rate.
- C) For a hospital organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B), the amount calculated pursuant to subsection (g)(2)(B) above shall be increased by \$60 per day.
- D) The Medicaid percentage adjustment payment, calculated in accordance with this subsection (g)(2), to a hospital, other than a hospital and/or hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B), shall not exceed \$155 per day for a children's hospital, as described in subsection (a)(5) of this Section, and shall not exceed \$215 per day for all other hospitals.
- E) The amount calculated pursuant to subsections (g)(2)(B) through (g)(2)(D) above shall be adjusted on October 1, 1993, and annually thereafter by a percentage equal to the lesser of:
- i) The increase in the national hospital market basket price proxies (DRI) hospital cost index for the most recent 12 month period for which data are available; or
  - ii) The percentage increase in the statewide average hospital payment rate, as described in subsection (k)(8) of this Section, over the previous year's statewide average hospital payment rate.
- F) The amount calculated pursuant to subsection (g)(1) above for hospitals described in Section 148.25(b)(1)(A) shall be no less than the DSH rates in effect on June 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

- cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports. The per diem cost of inpatient hospital services is calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.
- G) The amount calculated pursuant to subsections (g)(1) and (g)(2)(B) through (g)(2)(E) above, as adjusted pursuant to subsections (h) and (i) below, shall be the inpatient payment adjustment in dollars for the applicable DSH determination year, subject to the limitations described in subsections (g)(2)(D) and (j) of this Section, and the adjustment described in subsection (g)(2)(F) above. The adjustments calculated under subsections (g)(1) and (g)(2)(B) through (g)(2)(F) of this Section shall be paid on a per diem basis and shall be applied to each covered day of care provided.
- 3) Department of Human Services (DHS) DMHBB State-Operated Facility Adjustment for hospitals defined in Section 148.25(b)(6). Department of Human Services Mental-Health-and-Developmental Disabilities-DMHBB State-Operated facilities qualifying under subsection (a)(2) of this Section shall receive an adjustment for inpatient services provided on or after March 1, 1995. The amount of that payment shall be calculated as follows:
- A) The amount of the adjustment is based on a State DSH Pool. The State DSH Pool amount shall be calculated by subtracting the estimated DSH payment adjustments made under subsection (g)(1) through (g)(2) above and Section 148.170(f)(2) from the aggregate DSH payment adjustment set by the Health Care Financing Administration (HCFA) in accordance with Public Law 102-234.
  - B) The State DSH Pool amount is then allocated to hospitals defined in Section 148.25(b)(6) that qualify for DSH adjustments by multiplying the State DSH Pool amount by each hospital's ratio of Medicaid inpatient utilization (adjusted based upon historical utilization and projected increases in utilization) to the sum of all qualifying hospitals' Medicaid inpatient utilization.
  - C) The adjustment calculated in (g)(3)(B) above shall meet the limitation described in subsection (j)(4) below.
  - D) The adjustment calculated pursuant to subsection (g)(3)(B) above, for each hospital defined in Section 148.25(b)(6) that qualifies for DSH adjustments, is then divided by the Medicaid inpatient utilization data (adjusted based upon historical utilization and projected increases in utilization) to arrive at a per day adjustment. This amount is subject to the limitations described in subsection (j) of this Section. The adjustment described in this subsection shall be paid on a per diem basis and shall be applied to



## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

each Medicaid covered day of care provided.

- h) Inpatient Adjustor for Children's Hospitals. For a children's hospital, as defined in subsection (a)(5) of this Section, the payment adjustment calculated under subsection (g)(2) above shall be multiplied by 2.0.

- i) Inpatient Adjustor for Hospitals Organized Under the University of Illinois Hospital Act. For a hospital and/or hospitals organized under the University of Illinois Hospital Act, as defined in Section 148.25(b)(1)(B), the payment adjustment calculated under subsection (g)(2) above shall be multiplied by 1.50.

- j) DSH Adjustment Limitations.

- 1) Hospitals that qualify for DSH adjustments under this Section shall not be eligible for the total DSH adjustment if, during the DSH determination year, the hospital discontinues the provision of non-emergency obstetrical care (the provisions of this subsection shall not apply to those hospitals described in 89 Ill. Adm. Code 149.50(c)(1) through (c)(4) or those hospitals that have not offered nonemergency obstetric services as of December 22, 1987). In this instance, the adjustments calculated under subsections (g)(1) and (g)(2) shall cease effective on the date that the hospital discontinued the provision of such non-emergency obstetrical care.

- 2) Inpatient Payment Adjustments based upon DSH Determination Reviews. Appeals based upon a hospital's ineligibility for DSH payment adjustments, or their payment adjustment amounts, in accordance with Section 148.310(b), which result in a change in a hospital's eligibility for DSH payment adjustments or a change in a hospital's payment adjustment amounts, shall not affect the DSH status of any other hospital or the payment adjustment amount of any other hospital that has received notification from the Department of their eligibility for DSH payment adjustments based upon the requirements of this Section.

- 3) DSH Payment Adjustment. In accordance with Public Law 102-234, if the aggregate DSH payment adjustments calculated under this Section do not meet the State's final DSH Allotment as determined by the Health Care Financing Administration (HCFA), DSH payment adjustments calculated under this Section shall be adjusted to meet the State DSH Allotment. This adjustment shall first be applied to DSH payments made under subsection (g)(3) above. If further adjustments are necessary, then DSH payments made under subsection (g)(2) above shall be adjusted, with the DSH payments under subsection (g)(1) of this Section being adjusted last.

- 4) Omnibus Budget Reconciliation Act of 1993 (OBRA'93) Adjustments. In accordance with Public Law 103-66, adjustments to individual hospitals' disproportionate share payments shall be made if the sum of Medicaid payments (inpatient, outpatient, and disproportionate share) made to a hospital exceed the costs of providing services to Medicaid clients and persons without

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

insurance. The adjustments shall reduce disproportionate share spending until the costs and spending (described in the previous sentence) are equal or until the disproportionate share payments are reduced to zero. In this calculation, persons without insurance costs do not include contractual allowances. Hospitals qualifying for DSH payment adjustments must submit the information required in Section 148.150.

- 5) Medicaid Inpatient Utilization Rate Limit. Hospitals that qualify for DSH payment adjustments under this Section shall not be eligible for DSH payment adjustments if the hospital's Medicaid inpatient utilization rate, as defined in subsection (k)(5) below, is less than one percent.

- k) Inpatient Payment Adjustment Definitions. The definitions of terms used with reference to calculation of the inpatient payment adjustments are as follows:

- 1) "Base fiscal year" means, for example, the hospital's fiscal year ending in 1991 for the October 1, 1993 DSH determination year, the hospital's fiscal year ending in 1992 for the October 1, 1994, DSH determination year, etc.

- 2) "DSH determination year" means the 12 month period beginning on October 1 of the year and ending September 30 of the following year.

- 3) "Mean Medicaid inpatient utilization rate" means a fraction, the numerator of which is the total number of inpatient days provided in a given 12-month period by all Medicaid-participating Illinois hospitals to patients who, for such days, were eligible for Medicaid under Title XIX of the Federal Social Security Act (42 USC 854r-854r-1396a et seq.), and the denominator of which is the total number of inpatient days provided by those same hospitals. Title XIX specifically excludes days of care provided to Family and Children Assistance (formerly known as General Assistance) and Aid to the Medically Indigent (AMI) days but does include the types of days described in subsection (c)(3) of this Section. In this paragraph, the term "inpatient day" includes each day in which an individual (including a newborn) is an inpatient in the hospital whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere.

- 4) "Mean Medicaid obstetrical inpatient utilization rate" means a fraction, the numerator of which is the total Medicaid (Title XIX) obstetrical inpatient days, as defined in subsection (k)(7) below, provided by all Medicaid-participating Illinois hospitals providing obstetrical services to patients who, for such days, were eligible for Medicaid under Title XIX of the Federal Social Security Act (42 USC 854r-854r-1396a et seq.), and the denominator of which is the total Medicaid (Title XIX) inpatient days, as defined in subsection (k)(9) below, for all such hospitals. That information shall be derived from claims for



## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

applicable services provided in the Medicaid obstetrical inpatient utilization rate base year which were subsequently adjudicated by the Department through the last day of June preceding the DSH determination year and contained within the Department's paid claims data base.

- 5) "Medicaid inpatient utilization rate" means a fraction, the numerator of which is the number of a hospital's inpatient days provided in a given 12-month period to patients who, for such days, were eligible for Medicaid under Title XIX of the federal Social Security Act (42 USC 6-9-6-1396a et seq.) and the denominator of which is the total number of the hospital's inpatient days in that same period. Title XIX specifically excludes days of care provided to Family and Children Assistance (formerly known as General Assistance) and Aid to the Medically Indigent (AMI) days but does include the types of days described in subsection (c)(3) of this Section. In this paragraph, the term "inpatient day" includes each day in which an individual (including a newborn) is an inpatient in the hospital whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere.

- 6) "Medicaid obstetrical inpatient utilization rate" means a fraction, the numerator of which is the Medicaid (Title XIX) obstetrical inpatient days, as defined in subsection (k)(7) below, provided by a Medicaid-participating Illinois hospital providing obstetrical services to patients who, for such days, were eligible for Medicaid under Title XIX of the federal Social Security Act (42 USC 6-9-6-1396a et seq.), and the denominator of which is the total Medicaid (Title XIX) inpatient days, as defined in subsection (k)(9) below provided by such hospital. This information shall be derived from claims for applicable services provided in the Medicaid obstetrical inpatient utilization rate base year which were subsequently adjudicated by the Department through the last day of June preceding the DSH determination year and contained within the Department's paid claims data base.

- 7) "Medicaid (Title XIX) obstetrical inpatient days" means hospital inpatient days which were subsequently adjudicated by the Department through the last day of June preceding the DSH determination year and contained within the Department's paid claims data base, for recipients of medical assistance under Title XIX of Social Security Act, with an ICD-9-CM principal diagnosis code of 640.0 through 648.9 with a 5th digit of 1 or 2; 650; 651.0 through 659.9 with a 5th digit of 1, 2, 3, or 4; 660.0 through 669.9 with a 5th digit of 1, 2, 3, or 4; 670.0 through 676.9 with a 5th digit of 1 or 2; or V27 through V27.9; or V30 through V39.9; or any ICD-9-CM principal diagnosis code that is accompanied with a surgery procedure code between 72 and 75.99;

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

- 8) and specifically excludes Medicare/Medicaid crossover claims. "Statewide average hospital payment rate" means the hospital's alternative reimbursement rate, as defined in Section 148.270(a).  
9) "Total Medicaid (Title XIX) inpatient days", as referred to in subsections (k)(4) and (k)(6) above, means hospital inpatient days, excluding days for normal newborns, which were subsequently adjudicated by the Department through the last day of June preceding the DSH determination year and contained within the Department's paid claims data base, for recipients of medical assistance under Title XIX of the Social Security Act, and specifically excludes Medicare/Medicaid crossover claims.

- 10) "Medicaid obstetrical inpatient utilization rate base year" means, for example, state fiscal year 1992 for the October 1, 1993, DSH determination year; state fiscal year 1993 for the October 1, 1994, DSH determination year, etc.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days)

# Section 148.140 Hospital Outpatient and Clinic Services

## EMERGENCY

- a) Fee-For-Service Reimbursement

- 1) Reimbursement for hospital outpatient and-hospital-based-clinic services shall be made on a fee-for-service fee--for--service basis, except for:

- A) Those services that meet the definition of the Ambulatory Procedure Listing (APL) Hospital Ambulatory-Care-Program as described in subsection (b) of this Section, 7-which-shall be-reimbursed-in--accordance-with--subsections--(b)(4)--and--(b)(6)--of--this--Section--and-adjusted-in--accordance-with--subsection--(b)(7)--of--this--Section;  
B) End stage renal disease treatment (ESRDT) services, as described in subsection (c) of this Section, 7-which-shall be-reimbursed-in--accordance-with--subsection--(c)--of--this--Section--and--adjusted-in--accordance-with--subsection--(c)(5) of--this--Section--and  
C) Those services provided by a Certified Pediatric Ambulatory Care Center (CPACC), as described in 89 Ill. Adm. Code 140.461(f)(1)(D) and Section 148.25(b)(5)(D), 7-which-shall-be reimbursed-in--accordance-with--89-III--Adm--Code--140-461(f).  
D) Those services provided by a Critical Clinic Provider as described in subsection (e) of this Section.  
2) Fee-for-service reimbursement levels shall be at the lower of the hospital's usual and customary charge to the public or the Department's statewide maximum reimbursement screens. Hospitals will be required to bill the Department utilizing specific service codes. However, all specific client coverage policies

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

(relating to client eligibility and scope of services available to those clients) which pertain to the service billed are applicable to hospitals in the same manner as to non-hospital providers who bill fee for service.

- 3) With respect to those hospitals described in Section 148.25(b)(2)(A), the reimbursement rate described in subsection (a)(2) of this Section shall be adjusted on a retrospective basis. The retrospective adjustment shall be calculated as follows:

A) The reimbursement rates described in subsection (a)(2) of this Section shall be no less than the reimbursement rates in effect on June 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports.

B) The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.

- 4) Maternal and Child Health Program rates, as described in 89 Ill. Adm. Code 140 Table M, shall be paid to Certified Hospital Ambulatory Primary Care Centers (CHAPCC), as described in 89 Ill. Adm. Code 140.461(f)(1)(A) and Section 148.25(b)(5)(A), Certified Hospital Organized Satellite Clinics (CHOSC), as described in 89 Ill. Adm. Code 140.461(f)(1)(B) and Section 148.25(b)(5)(B), and Certified Obstetrical Ambulatory Care Centers (COBACC), as described in 89 Ill. Adm. Code 140.461(f)(1)(C) and Section 148.25(b)(5)(C). Maternal and Child Health Program rates shall also be paid to Certified Pediatric Ambulatory Care Centers (CPACC), as described in 89 Ill. Adm. Code 140.461(f)(1)(D) and Section 148.25(b)(5)(D), for covered services as described in 89 Ill. Adm. Code 140.462(e)(3), that are provided to non-assigned Maternal and Child Health Program clients, as described in 89 Ill. Adm. Code 140.464(b)(1).

- 5) Certified Pediatric Ambulatory Care Centers (CPACC), as described in 89 Ill. Adm. Code 140.461(f)(1)(D) and Section 148.25(b)(5)(D), shall be reimbursed in accordance with 89 Ill. Adm. Code 140.464(b)(2) for assigned clients.

- 6) Hospitals described in Sections 148.25(b)(2)(A) and 148.25(b)(2)(B) shall be required to submit outpatient cost reports to the Department within 90 days after the close of the facility's fiscal year.

- 7) With the exception of the retrospective adjustment described in subsection (a)(3) of this Section, no year-end reconciliation is made to the reimbursement rates calculated under this Section.

- b) Ambulatory Procedure Listing (APL) Hospital Ambulatory-Care-Program Effective July 1, 1998, the Department will reimburse hospitals for

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

certain hospital outpatient procedures as described in subsection (b)(1) of this Section Effective April 1, 1986, the Department liberalized the list of allowable ambulatory procedures to add many surgical, diagnostic and highly technical treatment procedures that can be performed and reimbursed on an ambulatory basis.

- 1) APL Hospital Ambulatory-Care Groupings

Under the APL Hospital Ambulatory-Care Program, a Hospital Ambulatory-Care list was developed that defines those technical procedures that require the use of the hospital outpatient or hospital-based-clinic setting, its technical staff or and/or equipment. These procedures are separated into four separate groupings based upon the complexity and historical costs of the procedures. The four separate groupings are as follows:

A) Surgical Groups Group I procedures are high-level technology surgeries that consume many hospital resources and are costly to deliver.

- i) Surgical group 1(a) consists of intense surgical procedures. Group 1(a) surgeries require an operating suite with continuous patient monitoring by anesthesia personnel. This level of service involves advanced specialized skills and highly technical operating room personnel using high technology equipment.

- ii) Surgical group 1(b) consists of moderately intense surgical procedures. Group 1(b) surgeries generally require the use of an operating room suite or an emergency room treatment suite, along with continuous monitoring by anesthesia personnel and some specialized equipment.

- iii) Surgical group 1(c) consists of low intensity surgical procedures. Group 1(c) surgeries may be done in an operating suite or an emergency room and require relatively brief operating times. Such procedures may be performed for evaluation or diagnostic reasons.

- iv) Surgical group 1(d) consists of surgical procedures of very low intensity. Group 1(d) surgeries may be done in an operating room or emergency room, have a low risk of complications, and include some physician-administered diagnostic and therapeutic procedures.

- B) Diagnostic and Therapeutic Groups Group II procedures are certain non-surgical, very high-level technology services recognized and approved by the Department as safe-outpatient procedures:

- i) Diagnostic and therapeutic group 2(a) consists of advanced or evolving technologically complex diagnostic or therapeutic procedures. Group 2(a) procedures are typically invasive and must be administered by a physician.



## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

- ii) Diagnostic and therapeutic group 2(b) consists of technologically complex diagnostic and therapeutic procedures that are typically non-invasive. Group 2(b) procedures typically include radiological consultation or a diagnostic study.
- iii) Diagnostic and therapeutic group 2(c) consists of other diagnostic tests. Group 2(c) procedures are generally non-invasive and may be administered by a technician and monitored by a physician.
- iv) Diagnostic and therapeutic group 2(d) consists of therapeutic procedures. Group 2(d) procedures typically involve parenterally administered therapeutic agents. Either a nurse or a physician is likely to perform such procedures.

C) Group 3 includes reimbursement for services provided in a hospital emergency department will be made in accordance with one of the three levels described below. Emergency Services mean those services which are for a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, possessing an average knowledge of medicine and health could reasonably expect that the absence of immediate attention would result in placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part. The determination of the level of service reimbursable by the Department shall be based upon the circumstances at the time of the initial examination, not upon the final determination of the client's actual condition, unless the actual condition is more severe. ~~Group-iii-procedures-are-other-surgical~~ ~~specialized-cardiac-and-diagnostic-procedures.~~

i) Emergency Level I refers to Emergency Services provided in the hospital's emergency department for the alleviation of severe pain or for immediate diagnosis and/or treatment of conditions or injuries that pose an immediate significant threat to life or physiologic function.

ii) Emergency Level II refers to Emergency Services that do not meet the above definition of Emergency Level I care, but that are provided in the hospital emergency department for a medical condition manifesting itself by acute symptoms of sufficient severity.

iii) Non-Emergency/Screening Level means those services provided in the hospital emergency department that do not meet the requirements of Emergency Levels I or II stated above. For such care, the Department will

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

reimburse the hospital either applicable current FFS rates for the services provided or a screening fee, but not both. The reimbursement rate for the screening fee will be the same as the current applicable rate for procedure code 92822 (emergency department visit, as specified in the Physicians Current Procedural Terminology, fourth edition [CPT-4]).

D) Group 4 for observation services is established to reimburse such services that are provided when a patient's current condition does not warrant an inpatient admission but does require an extended period of observation in order to evaluate and treat the patient in a setting that provides ancillary resources for diagnosis or treatment with appropriate medical and skilled nursing care. The hospital may bill for both observation and other API procedures but will be reimbursed only for the procedure (group) with the highest reimbursement rate. Observation services will be reimbursed under one of three categories: at least sixty minutes but less than six hours and thirty-one minutes of services; at least six hours and thirty-one minutes but less than twelve hours and thirty-one minutes of services; or, twelve hours and thirty-one minutes of services or more. ~~Group-iv-procedures-are-specialized-treatment-procedures; observation-services--high-risk---and---emergency---room services.~~

E) Group 5 for psychiatric treatment services is established to reimburse for certain outpatient treatment psychiatric services that are provided by a hospital that is enrolled with the Department to provide inpatient psychiatric services. Under this group, the Department will reimburse Type A and Type B Psychiatric Clinic Services, as defined in Section 148.40(d)(2) and the Illinois Medicaid State Plan.

F) Group 6 for physical rehabilitation services is established to reimburse for certain outpatient physical rehabilitation services that are provided by a hospital that is enrolled with the Department to provide inpatient physical rehabilitation services.

2) Each of the groups above will be reimbursed by the Department considering the following: ~~Hospital-Ambulatory-Care-List-Updating~~  
 A) With the exception of county-owned hospitals located in an Illinois county with a population greater than three million, and hospitals not required to file an annual cost report with the Department, reimbursement rates for each of the reimbursement groups described above shall be the lesser of:

- i) the hospital's charge to the general public; or
- ii) rates established by the Department.



## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

B) For county-owned hospitals in an Illinois county with a population greater than three million, reimbursement rates for each of the reimbursement groups shall be specified by the Department. However, such rates shall be no lower than the rates in effect on June 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports. The per diem cost of inpatient hospital services is calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.

c) Reimbursement rates for hospitals not required to file an annual cost report with the Department may be lower than those listed above. Such rates will be specified in the Hospital Handbook.

D) The rate for each group is all-inclusive for services provided by the hospital. No separate reimbursement will be made for ancillary services or the services of hospital personnel. The one exception is that hospitals shall be allowed to bill separately, on a fee-for-service basis, for professional services of physicians who are salaried by the hospital and who provide Emergency Level I or II services in the emergency department. For the purposes of this Section, a salaried physician is a physician who is salaried by the hospital; a physician who is reimbursed by the hospital through a contractual arrangement to provide direct patient care; or a group of physicians with a financial contract to provide emergency department care.

The Hospital Ambulatory Care file is updated periodically. As technology changes, so do the procedures that fall into the four categories. In addition, annual changes in the ICD-9-CM procedure codes and the listings necessitate annual changes to the Hospital Ambulatory Care file.

3) The assignment of procedure codes to each of the reimbursement groups in subsection (b)(1) of this section are detailed in the Department's Hospital Handbook and in notices to providers. Hospital-Ambulatory Care-Reimbursement prior-to-july-1995 Reimbursement-for-Hospital-Ambulatory-Care--procedures--was initially-developed-in-1986--For-each-of-the-four-separate groupings-identified-in-subsection-(b)(1)-of-this-Section-a-set rate--maximum-has-been-developed-based-upon-the-complexity-of-the procedure--historical-costs--and-teaching-status--of--the hospital--the-type-of-hospital--and-the-setting-in-which-the procedure-would-most-likely-be-performed--(tertiary-outpatient department)--general-clinic--department--psychiatric--clinic department--or-physical-rehabilitation--department--these set-rate-maximums-have-been-periodically-adjusted-since-1986

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

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**Effective July 1, 1995, reimbursement for Hospital-Ambulatory Care procedures shall be as follows:**

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1012 1013 1014 1015 1016 1017 1018 1019 1020 1021 1022 1023 1024 1025 1026 1027 1028 1029 1030 1031 1032 1033 1034 1035 1036 1037 1038 1039 104

et al. with respect to the Group II procedures described in subsection 4.4.4 of this Section. The manuscript submitted for publication of the above procedures and the associated software was accepted for publication in the *Journal of the Royal Microscopical Society* on 12 November 2003.

iii) A-hospital-defined-in-Section-140-25(b)-

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11 Whether the hospital is classified as a hospital  
 defined in Section 19-55(b)(2)(A) through (f)(2)(e)  
 which is a major teaching hospital as defined in  
 Section 19-55(d) or a children's hospital as  
 defined in 19-55(i)(1)(i)(A) Code 19-55(c)(3) or a  
 hospital defined in Section 19-24(b) and  
 whether the service is provided in the outpatient  
 general center, outpatient center or rehabilitation  
 clinic department

4.57 County Facility Outpatient Adjustment  
A) Effective for services provided on or after July 1, 1995,

4)5+ County Facility Outpatient Adjustment

A) Effective for services provided on or after July 1, 1995,

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

county owned hospitals in an Illinois county with a population of over three million shall be eligible for a county facility outpatient adjustment payment. This adjustment payment shall be in addition to the amounts calculated under this Section and are calculated as follows:

- i) Beginning with July 1, 1995, hospitals under this subsection shall receive an annual adjustment payment equal to total base year hospital outpatient costs trended forward to the rate year minus total estimated rate year hospital outpatient payments, multiplied by the resulting ratio derived when the value 200 is divided by the quotient of the difference between total base year hospital outpatient costs trended forward to the rate year and total estimated rate year hospital outpatient payments divided by one million.

- ii) The county facility outpatient adjustment under this subsection shall be made on a quarterly basis.

B) County Facility Outpatient Adjustment Definition. The definitions of terms used with reference to calculation of the county facility outpatient adjustment are as follows:

- i) "Base Year" means the most recently completed State fiscal year.
- ii) "Rate Year" means the State fiscal year during which the county facility adjustment payments are made.
- iii) "Total Estimated Rate Year Hospital Outpatient Payments" means the Department's total estimated outpatient date of service liability, projected for the upcoming rate year.
- iv) "Total Hospital Outpatient Costs" means the statewide sum of all hospital outpatient costs derived by summing each hospital's outpatient charges derived from actual paid claims data multiplied by the hospital's cost-to-charge ratio.

5)67 No Year-End Reconciliation

With the exception of the retrospective rate adjustment described in subsection (b)(7) of this Section, no year-end reconciliation is made to the reimbursement rates calculated under this subsection (b).

6)77 Rate Adjustments

With respect to those hospitals described in Sections 148.25(b)(2)(A), the reimbursement rates described in subsection (b)(4) of this Section shall be adjusted on a retrospective basis. The retrospective adjustment shall be calculated as follows:

- A) The reimbursement rates described in subsection (b)(4) of this Section shall be no less than the reimbursement rates in effect on June 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports.

- B) The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.

7)97 Services are available to all clients in geographic areas in which an encounter rate hospital or a county-operated outpatient facility is located. All specific client coverage policies (relating to client eligibility and scope of services available to those clients) which pertain to the service billed are applicable to hospitals reimbursed under the Ambulatory Care Program in the same manner as to encounter rate hospitals and to non-hospital and hospital providers who bill and receive reimbursement on a fee-for-service basis.

- 8)97 Hospitals described in Sections 148.25(b)(2)(A) and (b)(2)(B) shall be required to submit outpatient cost reports to the Department within 90 days after the close after the facility's fiscal year.

c) Payment for outpatient end-stage renal disease treatment (ESRDT) services provided pursuant to Section 148.40(c) shall be made at the Department's payment rates, as follows:

- 1) For inpatient hospital services provided pursuant to Section 148.40(c)(1), the Department shall reimburse hospitals pursuant to Sections 148.240 through 148.300 and 89 Ill. Adm. Code 149.
- 2) For outpatient services or home dialysis treatments provided pursuant to Sections 148.40(c)(2) or 148.40(c)(3), the Department will reimburse hospitals and clinics for ESRDT services at a rate which will reimburse the provider for the dialysis treatment and all related supplies and equipment, as defined in 42 CFR 405.2163 (1994). This rate will be that rate established by Medicare pursuant to 42 CFR 405.2124 and 413.170 (1994).
- 3) Payment for non-routine services. For services which are provided during outpatient or home dialysis treatment pursuant to Sections 148.40(c)(2) or 148.40(c)(3) but are not defined as a routine service under 42 CFR 405.2163 (1994), separate payment will be made to independent laboratories, pharmacies, and medical supply providers pursuant to 89 Ill. Adm. Code 140.430 through 140.434, 140.440 through 140.450, and 140.475 through 140.481, respectively.
- 4) Payment for physician services relating to ESRDT will be made separately to physicians, pursuant to 89 Ill. Adm. Code 140.400.
- 5) With respect to those hospitals described in Section 148.25(b)(2)(A), the reimbursement rates described in this subsection (c) shall be adjusted on a retrospective basis. The retrospective adjustment shall be calculated as follows:
  - A) The reimbursement rates described in this subsection (c) shall be no less than the reimbursement rates in effect on



## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

June 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports.

B) The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.

6) With the exception of the retrospective rate adjustment described in subsection (c)(5) of this Section, no year-end reconciliation is made to the reimbursement rates calculated under this subsection (c).

7) Hospitals described in Sections 148.25(b)(2)(A) and 148.25(b)(2)(B) shall be required to submit outpatient cost reports to the Department within 90 days after the close of the facility's fiscal year.

## d) Non Hospital Based Clinic Reimbursement

1) County-Operated Outpatient Facility Reimbursement  
Reimbursement for all services provided by county-operated outpatient facilities, as described in Section 148.25(b)(2)(C), that do not qualify as either a Maternal and Child Health Program Managed Care clinics, as described in 89 Ill. Adm. Code 140.461(f), or as a Critical Clinic Provider, as described in subsection (e) of this Section, shall be on an all-inclusive per encounter rate basis as follows:

A) Base Rate. The per encounter base rate shall be calculated as follows:

i) Allowable direct costs shall be divided by the number of direct encounters to determine an allowable cost per encounter delivered by direct staff.

ii) The resulting quotient, as calculated in subsection (d)(1)(A)(i) of this Section, shall be multiplied by the Medicare allowable overhead rate factor to calculate the overhead cost per encounter.

iii) The resulting product, as calculated in subsection (d)(1)(A)(ii) of this Section, shall be added to the resulting quotient, as calculated in subsection (d)(1)(A)(i) of this Section to determine the per encounter base rate.

iv) The resulting sum, as calculated in subsection (d)(1)(A)(iii) of this Section, shall be the per encounter base rate.

## B) Supplemental Rate

i) The supplemental service cost shall be divided by the total number of direct staff encounters to determine the direct supplemental service cost per encounter.

ii) The supplemental service cost shall be multiplied by the allowable overhead rate factor to calculate the

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

supplemental overhead cost per encounter.  
iii) The quotient derived in subsection (d)(1)(B)(i) of this Section, shall be added to the product derived in subsection (d)(1)(B)(ii) of this Section, to determine the per encounter supplemental rate.

iv) The resulting sum, as described in subsection (d)(1)(B)(iii) of this Section, shall be the per encounter supplemental rate.

## C) Final Rate

i) The per encounter base rate, as described in subsection (d)(1)(A)(iv) of this Section, shall be added to the per encounter supplemental rate, as described in subsection (d)(1)(B)(iv) of this Section, to determine the per encounter final rate.

ii) The resulting sum, as determined in subsection (d)(1)(C)(i) of this Section, shall be the per encounter final rate.

iii) The per encounter final rate, as described in subsection (d)(1)(C)(ii) of this Section, shall be adjusted in accordance with subsection (d)(2) of this Section.

## 2) Rate Adjustments

Rate adjustments to the per encounter final rate, as described in subsection (d)(1)(C)(iii) of this Section, shall be calculated as follows:

A) The reimbursement rates described in subsections (d)(1)(A) through (d)(1)(C) and (e)(2) of this Section shall be no less than the reimbursement rates in effect on June 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports. The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.

B) The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.

C) The final rate described in subsection (d)(1)(C) of this Section shall be no less than \$147.09 per encounter.

3) County-operated outpatient facilities, as described in Section 148.25(b)(2)(C), shall be required to submit outpatient cost reports to the Department within 90 days after the close of the facility's fiscal year. No year-end reconciliation is made to the reimbursement calculated under this subsection (d).

4) Services are available to all clients in geographic areas in which an encounter rate hospital or a county-operated outpatient facility is located. All specific client coverage policies



## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

(relating to client eligibility and scope of services available to those clients) which pertain to the service billed are applicable to encounter rate hospitals in the same manner as to hospitals reimbursed under the Ambulatory Care Program and to non-hospital and hospital providers who bill and receive reimbursement on a fee-for-service basis.

## e) Critical Clinic Providers

- 1) Effective for services provided on or after September 27, 1997, a clinic owned or operated by a county with a population of over three million, that is within or adjacent to a hospital, shall qualify as a Critical Clinic Provider if the facility meets the efficiency standards established by the Department. The Department's efficiency standards under this subsection (e) require that the quotient of total encounters per facility fiscal year for the Critical Clinic Provider divided by total full time equivalent physicians providing services at the Critical Clinic Provider shall be greater than:

- A) 2700 for reimbursement provided during the facility's cost reporting year ending during 1998,
- B) 2900 for reimbursement provided during the facility's cost reporting year ending during 1999,
- C) 3100 for reimbursement provided during the facility's cost reporting year ending during 2000,
- D) 3600 for reimbursement provided during the facility's cost reporting year ending during 2001, and
- E) 4200 for reimbursement provided during the facility's cost reporting year ending during 2002.

- 2) Reimbursement for all services provided by any Critical Clinic Provider shall be on an all-inclusive per-encounter rate which shall equal reported direct costs of Critical Clinic Providers for each facility's cost reporting period ending in 1995, and available to the Department as of September 1, 1997, divided by the number of Medicaid services provided during that cost reporting period as adjudicated by the Department through July 31, 1997.

- 3) Critical Clinic Providers, as described in this subsection (e), shall be required to submit outpatient cost reports to the Department within 90 days after the close of the facility's fiscal year. No year-end reconciliation is made to the reimbursement calculated under this subsection (e).

- 4) The reimbursement rates described in this subsection (e) shall be no less than the reimbursement rates in effect on July 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports. The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

days.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days)

### Section 148.295 Critical Hospital Adjustment Payments (CHAP) EMERGENCY

Critical Hospital Adjustment Payments (CHAP) shall be made to all eligible hospitals excluding county-owned hospitals, as described in Section 148.25 (b)(1)(A), and hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B), for inpatient admissions occurring on or after July 1, 1998 #995, in accordance with this Section.

## a) Trauma Center Adjustments (TCA)

The Department shall make a trauma center adjustment (TCA) to Illinois hospitals recognized, as of the last day of June preceding the CHAP rate period, as a Level I or Level II trauma center by the Illinois Department of Public Health, in accordance with the provisions of subsections (a)(1) through (a)(3) below.

## 1) Level I Trauma Center Adjustment (TCA).

A) Criteria. Illinois hospitals that, on the last day of June preceding the CHAP rate period, are recognized as a Level I trauma center by the Illinois Department of Public Health shall receive the Level I trauma center adjustment.

B) Adjustment. Illinois hospitals meeting the criteria specified in subsection (a)(1)(A) above shall receive an adjustment as follows:

- i) Hospitals with Medicaid trauma admissions equal to or greater than the mean Medicaid trauma admissions, for all hospitals qualifying under subsection (a)(1)(A) above, shall receive an adjustment of \$14,165 \$17,500 per Medicaid per Medicaid trauma admission in the CHAP base period.

- ii) Hospitals with Medicaid trauma admissions less than the mean Medicaid trauma admissions, for all hospitals qualifying under subsection (a)(1)(A) above, shall receive an adjustment of \$14,165 \$17,500 per Medicaid trauma admission in the CHAP base period.

2) Level II Rural Trauma Center Adjustment (TCA). Illinois rural hospitals, as defined in Section 148.25(g)(3), that, on the last day of June preceding the CHAP rate period, are recognized as a Level II trauma center by the Illinois Department of Public Health shall receive an adjustment of \$11,565 \$9,900 per Medicaid trauma admission in the CHAP base period.

3) Level II Urban Trauma Center Adjustment (TCA). Illinois urban hospitals, as described in Section 148.25(g)(4), that, on the last day of June preceding the CHAP rate period, are recognized as Level II trauma centers by the Illinois Department of Public

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

Health shall receive an adjustment of \$11,565 \$97,900 per Medicaid trauma admission in the CHAP base period, provided that such hospital meets the criteria described below:

- A) The hospital is located in a county with no Level I trauma center; and
- B) The hospital is located in a Health Professional Shortage Area (HPSA) (42 CFR 5), as of the last day of June preceding the CHAP rate period, and has a Medicaid trauma admission percentage at or above the mean of the individual facility values determined in subsection (a)(3)(A) above; or the hospital is not located in a HPSA (42 CFR 5) and has a Medicaid trauma admission percentage that is at least the mean plus one standard deviation of the individual facility values determined in subsection (a)(3)(A) above.
- b) Rehabilitation Hospital Adjustment (RHA)
 

Illinois hospitals that, on the last day of June preceding the CHAP rate period, qualify as rehabilitation hospitals, as defined in 89 Ill. Adm. Code 149.50(c)(2) and are accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF), shall receive a rehabilitation hospital adjustment in the CHAP rate period that consists of the following three components:

  - 1) Treatment Component. All hospitals defined in subsection (b) above shall receive \$4,595 \$97,000 per Medicaid Level I rehabilitation admission in the CHAP base period.
  - 2) Facility Component. All hospitals defined in subsection (b) above shall receive a facility component that shall be based upon the number of Medicaid Level I rehabilitation admissions in the CHAP base period as follows:
    - A) Hospitals with fewer than 90 Medicaid Level I rehabilitation admissions in the CHAP base period shall receive a facility component of \$250,000 in the CHAP rate period.
    - B) Hospitals with 90 or more Medicaid Level I rehabilitation admissions in the CHAP base period shall receive a facility component of \$575,000 in the CHAP rate period.
  - 3) Health Professional Shortage Area Adjustment Component. Hospitals defined in subsection (b) above, that are located in a Health Professional Shortage Area (HPSA) (42 CFR 5) as of the last day of June preceding the CHAP rate period, shall receive \$300 per Medicaid Level I rehabilitation inpatient day in the CHAP base period.
- c) Direct Hospital Adjustment (DHA) Criteria
 

To qualify for the DHA under this subsection (c), hospitals must meet one of the following criteria.

  - 1) Be an Illinois hospital located outside of Health Service Area (HSA) six that meets one of the following criteria:
    - A) Has a Medicaid inpatient utilization rate on the last day of June preceding the CHAP rate period, as defined in Section 148.120(k)(5), greater than 60 percent and has an average

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

length of stay of less than ten days.

- B) Is a major teaching hospital with 35 or more graduate medical education programs accredited by the American Accreditation Council for Graduate Medical Education, the American Osteopathic Association Division of Post-doctoral Training, or the American Dental Association Joint Commission on Dental Accreditation.

- 2) Be a hospital located in HSA six, excluding psychiatric and rehabilitation hospitals as defined in 89 Ill. Adm. Code 149.50(c)(1) and (c)(2), that meets one of the following criteria:
  - A) Is a hospital whose sum of the critical weighting factors is greater than one standard deviation above the mean of the summed critical weighting factors for all hospitals located within the same planning area. The critical weighting factor is determined as follows:
    - i) Hospitals that, on the last day of June preceding the CHAP rate period, are designated as a Level III, II, or I Perinatal Center by the Illinois Department of Public Health shall receive a critical weighting factor of 10, 7.5, or 5 respectively depending on the hospital's perinatal level designation.
    - ii) Hospitals that, on the last day of June preceding the CHAP rate period, are recognized as a Level I or II Trauma Center by the Illinois Department of Public Health shall receive a critical weighting factor of ten or five respectively depending on the hospital's trauma level designation.
    - iii) Hospitals that, on the last day of June preceding the CHAP rate period, are eligible for disproportionate share payments as described in Section 148.120(g)(1) or (g)(2) shall receive a critical weighting factor of five.
    - iv) Hospitals that have an occupancy ratio, as determined by the Illinois Department of Public Health (IDPH), based upon the most current IDPH published report entitled "Bed Count, Average Length of Stay, Average Daily Census and Percent Occupancy for Non-Federal Hospitals in Illinois", which is available to the Illinois Department of Public Aid on the last day of June preceding the CHAP rate period, which is equal to or greater than the mean occupancy ratio for all hospitals in the planning area shall receive a critical weighting factor of five.
    - v) Hospitals which have Medicaid obstetrical care admissions in the CHAP base period that are equal to or greater than one-half a standard deviation above the mean Medicaid obstetrical care admissions in their

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

planning area shall receive a critical weighting factor of ten. If the hospital's Medicaid obstetrical care admissions are greater than the mean but less than one-half a standard deviation above the mean Medicaid obstetrical care admissions in their planning area, the hospital shall receive a critical weighting factor of five.

vi) Hospitals that on the last day of June preceding the CHAP rate period have a Medicaid inpatient utilization rate as defined in Section 148.120(k)(5) which is equal to or greater than one-half a standard deviation above the mean Medicaid inpatient utilization rate in their planning area, shall receive a critical weighting factor of ten. If the hospital's Medicaid inpatient utilization rate is greater than the mean but less than one-half a standard deviation above the mean Medicaid inpatient utilization rate in their planning area, the hospital shall receive a critical weighting factor of five.

vii) Hospitals which have Medicaid general care admissions in the CHAP base period that are equal to or greater than one-half a standard deviation above the mean Medicaid general care admissions in their planning area shall receive a critical weighting factor of ten. If the hospital's Medicaid general care admissions are greater than the mean but less than one-half a standard deviation above the mean Medicaid general care admissions in their planning area, the hospital shall receive a critical weighting factor of five.

viii) Hospitals which have a cost per day at 80 percent occupancy that is less than or equal to one-half a standard deviation below the mean cost per day at 80 percent occupancy in their planning area shall receive a critical weighting factor of ten. If the hospital's cost per day at 80 percent occupancy is greater than one-half a standard deviation below the mean cost per day at 80 percent occupancy but less than the mean cost per day at 80 percent occupancy in their planning area, the hospital shall receive a critical weighting factor of five.

B) Is a major teaching hospital with 40 or more graduate medical education programs accredited by the American Accreditation Council for Graduate Medical Education, the American Osteopathic Association Division of Post-doctoral Training, or the American Dental Association Joint Commission on Dental Accreditation.

C) Is a hospital with 3,200 37-400 or more total Medicaid admissions in the CHAP base period.

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

3) Be a hospital qualifying under subsection (c)(2) above that has the highest number of Medicaid obstetrical care admissions in the CHAP base period ~~which are equal to or greater than 27400~~.

4) Be a hospital qualifying under subsection (c)(2) above that on the last day of June preceding the CHAP rate period, is designated as a Level III or II Perinatal Center by the Illinois Department of Public Health, and that has a Medicaid inpatient utilization rate, as defined in Section 148.120(k)(5), which is greater than one-half a standard deviation above the statewide mean Medicaid inpatient utilization rate, as defined in Section 148.120(k)(3), and that has at least one obstetrical graduate medical education program accredited by the American Accreditation Council for Graduate Medical Education, the American Osteopathic Association Division of Post-doctoral Training, or the American Dental Association Joint Commission on Dental Accreditation.

5) Be a children's hospital, which means a hospital devoted exclusively to caring for children. A hospital which includes a facility devoted exclusively to caring for children that is separately licensed as a hospital by a municipality shall be considered a children's hospital to the degree that the hospital's Medicaid care is provided to children.

## d) DHA Adjustment

Calculation of the DHA is as follows:

1) Hospitals qualifying under subsection (c)(1)(A) above shall receive a DHA of \$60 multiplied by the DHA Medicaid days in the CHAP base period.

2) Hospitals qualifying under subsection (c)(1)(B), (c)(2) or (c)(5) above shall receive a DHA of \$30 multiplied by the DHA Medicaid days in the CHAP base period.

3) Hospitals qualifying under subsection (c)(5) above which have a Medicaid inpatient utilization rate, as defined in Section 148.120(k)(5), on the last day of June preceding the CHAP rate period, that is greater than 85 percent shall receive an additional \$20 multiplied by the DHA Medicaid days in the CHAP base period.

4) Hospitals qualifying under subsection (c)(2)(B) above shall receive an additional \$10 multiplied by the DHA Medicaid days in the CHAP base period.

5) Hospitals qualifying under subsection (c)(2)(A) and (c)(2)(B) of this Section will receive an additional \$20 multiplied by DHA Medicaid days in the CHAP base period.

6) Hospitals qualifying under subsection (c)(3) or (c)(4) above shall receive an additional \$120 multiplied by the DHA Medicaid days in the CHAP base period if their Medicaid inpatient utilization rate, as defined in Section 148.120(k)(5), on the last day of June preceding the CHAP rate period, is equal to or greater than 50 percent; or \$65 multiplied by the DHA Medicaid



## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

days in the CHAP base period if their Medicaid inpatient utilization rate, as defined in Section 148.120(k)(5), on the last day of June preceding the CHAP rate period, is less than 50 percent.

- e) Rural Critical Hospital Adjustment Payments (RCHAP)  
Rural Critical Hospital Adjustment Payments (RCHAP) shall be made to rural hospitals, as described in 89 Ill. Adm. Code 140.80(j)(1), for certain inpatient admissions occurring-on-or-after-September-17-1996. The hospital qualifying under this subsection that has the highest number of Medicaid obstetrical care admissions during the CHAP base period shall receive \$400,000 per year. The Department shall also make a RCHAP adjustment payment to hospitals qualifying under this subsection at a rate that is the greater of:

- 1) the product of \$1,490 multiplied by the number of RCHAP Obstetrical Care Admissions in the CHAP base period, or
- 2) the product of \$150 multiplied by the number of RCHAP General Care Admissions in the CHAP base period.

- f) Each eligible hospital's critical hospital adjustment payment for the CHAP rate period shall equal the sum of the amounts described in subsections (a), (b), (d) and (e) above. The critical hospital adjustment payments shall be paid to eligible hospitals on a quarterly basis.

- g) Critical Hospital Adjustment Limitations

Hospitals that qualify for trauma center adjustments under subsection (a) shall not be eligible for the total trauma center adjustment if, during the CHAP rate period, the hospital is no longer recognized by the Illinois Department of Public Health as a Level I trauma center as required for the adjustment described in subsection (a)(1) above, or a Level II trauma center as required for the adjustment described in subsection (a)(2) or (a)(3) above. In these instances, the adjustments calculated shall be pro-rated, as applicable, based upon the date that such recognition ceased.

- h) In order to maintain critical hospital access, certain hospitals, as determined by the Director, may receive a CHAP payment for the CHAP rate period ending on June 30, 1998, in an amount determined by the Director.

- i) Critical Hospital Adjustment Payment Definitions

The definitions of terms used with reference to calculation of the CHAP required by this Section are as follows:

- 1) "CHAP base period" means State Fiscal Year 1994 for CHAP payments calculated for the July 1, 1995, CHAP rate period; State Fiscal Year 1995 for CHAP payments calculated for the July 1, 1996, CHAP rate period; etc.
- 2) "CHAP rate period" means, beginning July 1, 1995, the 12 month period beginning on July 1 of the year and ending June 30 of the following year.
- 3) "Cost per day at 80 percent occupancy" means the estimated inpatient cost per day had the hospital been operating at an 80

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

percent occupancy rate.

- 4) "Medicaid general care admission" means hospital inpatient admissions which were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, for recipients of medical assistance under Title XIX of the Social Security Act, excluding admissions for normal newborns, Medicare/Medicaid crossover admissions, psychiatric and rehabilitation admissions.

- 5) "Medicaid inpatient day" means hospital inpatient days which were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, for recipients of medical assistance under Title XIX of the Social Security Act, excluding days for normal newborns and Medicare/Medicaid crossover days.

- 6) "Medicaid Level I rehabilitation admissions" means those claims billed as Level I admissions which were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, with an occurrence code of 63 when applicable and an ICD-9-CM principal diagnosis code of: 054.3, 310.1 through 310.2, 320.1, 336.0 through 336.9, 344.0 through 344.2, 344.8 through 344.9, 348.1, 801.30, 803.10, 803.84, 806.0 through 806.19, 806.20 through 806.24, 806.26, 806.29 through 806.34, 806.36, 806.4 through 806.5, 851.06, 851.80, 853.05, 854.0 through 854.04, 854.06, 854.1 through 854.14, 854.16, 854.19, 905.0, 907.0, 907.2, 952.0 through 952.09, 952.10 through 952.16, 952.2, and V57.0 through V57.89, excluding admissions for normal newborns.

- 7) "Medicaid Level I rehabilitation inpatient day" means the days associated with the claims defined in subsection (i)(6) above.

- 8) "Medicaid obstetrical care admission" means hospital inpatient admissions which were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, for recipients of medical assistance under Title XIX of Social Security Act, with an ICD-9-CM principal diagnosis code of 640.0 through 648.9 with a 5th digit of 1 or 2; 650; 651.0 through 659.9 with a 5th digit of 1, 2, 3, or 4; 660.0 through 669.9 with a 5th digit of 1, 2, 3, or 4; 670.0 through 676.9 with a 5th digit of 1 or 2; or V27 through V27.9; or V30 through V39.9; or any ICD-9-CM principal diagnosis code that is accompanied with a surgery procedure code between 72 and 75.99; and specifically excludes Medicare/Medicaid crossover claims.

- 9) "Medicaid psychiatric days", as used in subsection (i)(18) below, means hospital inpatient days for the Supplemental CHAP base that are billed to the Department with a category of service 21.

- 10) "Medicaid rehabilitation days", as used in subsection (i)(18)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

below, means hospital inpatient days for the Supplemental CHAP base that are billed to the Department with a category of service 22.

- 11) "Medicaid trauma admission" means those claims billed as admissions which were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, with an ICD-9-CM principal diagnosis code of: 800.0 through 800.99, 801.0 through 801.99, 802.0 through 802.99, 803.0 through 803.99, 804.0 through 804.99, 805.0 through 805.99, 806.0 through 806.99, 807.0 through 807.99, 808.0 through 808.9, 809.0 through 809.1, 828.0 through 828.1, 839.0 through 839.3, 839.7 through 839.9, 850.0 through 850.9, 851.0 through 851.99, 852.0 through 852.59, 853.0 through 853.19, 854.0 through 854.19, 860.0 through 860.5, 861.0 through 861.32, 862.8, 863.0 through 863.99, 864.0 through 864.19, 865.0 through 865.19, 866.0 through 866.13, 867.0 through 867.9, 868.0 through 868.19, 869.0 through 869.1, 887.0 through 887.7, 896.0 through 896.3, 897.0 through 897.7, 900.0 through 900.9, 902.0 through 904.9, 925, 926.8, 929.0 through 929.99, 958.4, 958.5, 990 through 994.99. For those hospitals recognized as Level I trauma centers solely for pediatric trauma cases, Medicaid trauma admissions are only calculated for the claims billed as admissions, excluding admissions for normal newborns, which were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, with ICD-9-CM diagnoses within the above ranges for children under the age of 18 excluding admissions for normal newborns.

- 12) "Medicaid trauma admission percentage" means a fraction, the numerator of which is the hospital's Medicaid trauma admissions and the denominator of which is the total Medicaid trauma admissions in a given 12 month period for all Level II urban trauma centers.

- 13) "CHAP base period" means State Fiscal Year 1995 for RCHAP's calculated for the July 1, 1996, CHAP rate period; State Fiscal Year 1996 for RCHAP's calculated for July 1, 1997, CHAP rate period; etc.

- 14) "RCHAP general care admission" means Medicaid General Care Admissions, as defined in subsection (i)(4) above, less RCHAP Obstetrical Care Admissions, occurring in the CHAP base period.

- 15) "RCHAP obstetrical care admissions" means Medicaid General Care Admissions, as defined in subsection (i)(4) above, with a Diagnosis Related Group (DRG) of 370 through 375, occurring in the CHAP base period.

- 16) "Total Medicaid admissions" means hospital inpatient admissions for the Supplemental CHAP base period for recipients of medical assistance under Title XIX of the Social Security Act, excluding admissions for normal newborns and Medicare/Medicaid crossover

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

admissions.

- 17) "Total Medicaid days" means hospital inpatient days for the CHAP base period for recipients of medical assistance under Title XIX of the Social Security Act, excluding days for normal newborns and Medicare/Medicaid crossover admissions.

- 18) "DHA Medicaid days" means total Medicaid days that include Medicaid psychiatric days and Medicaid rehabilitation days for the CHAP base period multiplied by a factor of two.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days)

### Section 148.296 Supplemental Critical Hospital Adjustment Payments (SCHAP)

#### EMERGENCY

Supplemental Critical Hospital Adjustment Payments (SCHAP) shall be made to all eligible hospitals excluding county-owned hospitals, as described in Section 148.25(b)(1)(A), hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B), hospitals described in 89 Ill. Adm. Code 149.50(c)(1), (c)(2) or (c)(4), and hospitals described in Section 148.120(a)(5) not meeting the criteria in subsection (a)(3) or (a)(8) below with a--Medicaid--inpatient-utilization-rate-that-is-less-than-80-percent, for inpatient admissions occurring on or after July 1, 1998 1997, in accordance with this Section.

- a) To qualify for payments under this Section, a hospital must be located in Health Service Area (HSA) 6 or HSA 11 and satisfy one of the following criteria during the Supplemental CHAP base period:

- 1) A hospital's:

- A) Medicaid obstetrical care admissions are greater than or equal to the mean number of Medicaid obstetrical care admissions for all hospitals located within the same health facilities planning area,  
B) Total critical weighting factor is greater than or equal to the mean total critical weighting factors of all hospitals located within the same HSA, and  
C) Medicaid Inpatient Utilization Rate (MIUR) is greater than or equal to the mean MIUR of all hospitals located within the same HSA.

- 2) A hospital has:

- A) 3900 or more total Medicaid admissions,  
B) an occupancy percentage rate greater than the mean occupancy percentage rate, as defined by the Department of Public Health, of all hospitals within the same HSA, and  
C) an MIUR greater than or equal to 50.55 percent.

- 3) A hospital is a children's hospital, as defined in Section 148.120(a)(5), and has an MIUR greater than or equal to 80 percent.

- 4) A hospital is located in a health facilities planning area where



## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

all hospitals also are located in a Health Professional Shortage Area (HPSA), as designated in the Federal Register for the Supplemental CHAP base period, and has the greatest number of Medicaid obstetrical care admissions among all hospitals within that same health facilities planning area.

- 5) A hospital provides at least 900 Medicaid obstetrical admissions and possesses an MIUR that is greater than or equal to 70 percent.
- 6) A hospital has an MIUR that is greater than or equal to 75 percent.

- 7) A hospital with a level II perinatal center with an average length of stay that is less than 4.6 days and a cost to day ratio of \$650 or less, as described in Section 148.295(c)(2)(A)(viii).
- 8) A children's hospital, as described at 89 Ill. Adm. Code 149.50(c)(3) with 4500 or more total Medicaid admissions during the Supplemental CHAP base period.

b) The Department will make payments during the CHAP rate period to qualifying SCHAP hospitals under the following methodology.

- 1) For hospitals qualifying under subsection (a)(1) above that are located in HSA 6, the payment shall equal the product of the total Medicaid admissions multiplied by:

- A) \$620 for hospitals that:
  - i) have an MIUR that is greater than or equal to one standard deviation above the mean MIUR of all hospitals within HSA 6, and
  - ii) have a total critical weighting factor that is greater than or equal to one standard deviation above the mean of the total critical weighting factor for all hospitals within HSA 6.

- B) \$615 for hospitals that:

- i) have an MIUR that is greater than or equal to one-half standard deviation, but less than one standard deviation, above the mean MIUR of all hospitals within HSA 6, and
- ii) have a total critical weighting factor that is greater than or equal to one-half standard deviation, but less than one standard deviation, above the mean total critical weighting factor of all hospitals within HSA 6.

- C) \$610 for hospitals that:

- i) have an MIUR that is greater than or equal to, but less than one-half standard deviation above, the mean MIUR of all hospitals within HSA 6, and
- ii) have a total critical weighting factor that is greater than or equal to, but less than one-half standard deviation above, the mean total critical weighting factor of all hospitals within HSA 6.

- 2) For hospitals qualifying under subsection (a)(1) above that are

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

located in HSA 11, the payment shall equal the product of the total Medicaid admissions multiplied by:

- A) \$835 for hospitals that:

- i) have an MIUR that is greater than or equal to one standard deviation above the mean MIUR of all hospitals within HSA 11, and
- ii) have a total critical weighting factor that is greater than or equal to one standard deviation above the mean of the total critical weighting factor for all hospitals within HSA 11.

- B) \$775 for hospitals that:

- i) have an MIUR that is greater than or equal to one-half standard deviation, but less than one standard deviation, above the mean MIUR of all hospitals within HSA 11, and
- ii) have a total critical weighting factor that is greater than or equal to one-half standard deviation, but less than one standard deviation, above the mean total critical weighting factor of all hospitals within HSA 11.

- C) \$700 for hospitals that:

- i) have an MIUR that is greater than or equal to, but less than one-half standard deviation above, the mean MIUR of all hospitals within HSA 11, and
- ii) have a total critical weighting factor that is greater than or equal to, but less than one-half standard deviation above, the mean total critical weighting factor of all hospitals within HSA 11.

- 3) For hospitals qualifying under subsection (a)(2) above, the payment shall equal the product of the total Medicaid admissions multiplied by \$375.

- 4) For hospitals qualifying under subsection (a)(3) above, the payment shall equal the product of the total Medicaid days multiplied by \$125.

- 5) For hospitals qualifying under subsection (a)(4) above, the payment shall equal the product of the total Medicaid days multiplied by \$99.50.

- 6) For hospitals qualifying under subsection (a)(5) above and located in HSA 6, the payment shall equal the product of the total Medicaid admissions multiplied by \$875.

- 7) For hospitals qualifying under subsection (a)(5) above and located in HSA 11, the payment shall equal the product of the total Medicaid admissions multiplied by \$835.

- 8) For hospitals qualifying under subsection (a)(6) above and located in HSA 6, the payment shall equal the product of the total Medicaid admissions multiplied by \$420.

- 9) For hospitals qualifying under subsection (a)(6) above and located in HSA 11, the payment shall equal the product of the



## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

c) total Medicaid admissions multiplied by \$400.  
 A hospital may only receive payments under one of the payment methodologies described in subsection (b) above. In the event that a hospital qualifies under more than one criterion under subsection (a) of this Section, the Department will reimburse the hospital using the payment methodology that allows the largest payment.

d) For any hospital that meets any of the payment criteria under subsection (b) above, the Department will increase the SCHAP payment if, during the Supplemental CHAP base period, a hospital meets either or both of the conditions under (d)(1) or (d)(2) below.

1) A hospital has:

- A) Medicaid obstetrical care admissions greater than or equal to the mean number of Medicaid obstetrical care admissions of all hospitals located in the qualifying hospital's HSA,
- B) a total critical weighting factor that is greater than or equal to the mean total critical weighting factor of all hospitals located in the qualifying hospital's HSA, and
- C) an MIUR greater than or equal to the mean MIUR of all hospitals located in the qualifying hospital's HSA.

2) A hospital has an MIUR greater than or equal to 70 percent.

e) Additional SCHAP payments shall be paid under the following methodologies:

1) For hospitals qualifying under subsection (d)(1) above and located in HSA 6, the payment shall equal the product of \$40 multiplied by the hospital's total SCHAP admissions.

2) For hospitals qualifying under subsection (d)(1) above and located in HSA 11, the payment shall equal the product of \$405 multiplied by the hospital's total SCHAP admissions.

3) For hospitals qualifying under subsection (d)(2) above and located in HSA 6, the payment shall equal the product of \$185 multiplied by the hospital's total SCHAP admissions.

4) For hospitals qualifying under subsection (d)(2) above and located in HSA 11, the payment shall equal the product of \$330 multiplied by the hospital's total SCHAP admissions.

5) For hospitals qualifying under subsection (a)(7) above, an additional payment shall be made that equals the product of \$150 multiplied by the number of DHA days in the Supplemental CHAP base period.

6) For hospitals qualifying under subsection (a)(8) above, an additional payment shall be made that equals the product of \$435 multiplied by the total Medicaid admissions in the Supplemental CHAP base period.

f) SCHAP payments under this Section shall be paid on a quarterly basis.

g) Definitions:

1) "Supplemental CHAP base period" means services provided during State Fiscal Year 1995 and adjudicated by the Department by June 30, 1996.

2) "CHAP rate period", as used in this Section, has the same meaning

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

as defined in Section 148.295(h)(2).

3) "Medicaid Inpatient Utilization Rate (MIUR)", as used in this Section, has the same meaning as defined in Section 148.120(k)(5), in effect for the rate period October 1, 1996, through September 30, 1997.

4) "Medicaid obstetrical care admissions", as used in this Section, has the same meaning as defined in Section 148.295(h)(8) for the Supplemental CHAP base period.

5) "Medicaid psychiatric admissions", as used in subsection (g)(10) below, means hospital inpatient admissions for the Supplemental CHAP base that are billed to the Department with a category of service 21.

6) "Medicaid rehabilitation admissions", as used in subsection (g)(10) below, means hospital inpatient admissions for the Supplemental CHAP base that are billed to the Department with a category of service 22.

7) "Total critical weighting factor", as used in this Section, has the same meaning as "sum of the critical weighting factors" as defined in Section 148.295(c)(2)(A) for the Supplemental CHAP base period.

8) "Total Medicaid admissions" means hospital inpatient admissions for the Supplemental CHAP base period for recipients of medical assistance under Title XIX of the Social Security Act, excluding admissions for normal newborns and Medicare/Medicaid crossover admissions.

9) "Total Medicaid days" means hospital days for the Supplemental CHAP base period for recipients of medical assistance under Title XIX of the Social Security Act, excluding days for normal newborns and Medicare/Medicaid crossover days.

10) "Total SCHAP admissions" means total Medicaid admissions that include Medicaid psychiatric admissions and Medicaid rehabilitation admissions for the Supplemental CHAP base period multiplied by a factor of two.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. effective July 1, 1998, for a maximum of 150 days)

13070

## Section 148.297 Pediatric Outpatient Adjustment Payments

**EMERGENCY**

Pediatric Outpatient Adjustment Payments shall be made to all eligible hospitals excluding county-owned hospitals, as described in Section 148.25(b)(1)(A), and hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B), for outpatient services occurring on or after July 1, 1998 1997, in accordance with this Section.

a) To qualify for payments under this Section, a hospital must:

- 1) be a children's hospital, as defined in 89 Ill. Adm. Code 149.50(c)(3), and

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

- 2) have a Pediatric Medicaid Outpatient Percentage greater than 80 percent during the Pediatric Outpatient Adjustment Base Period.

b) Hospitals qualifying under this Section shall receive the following amounts for the Pediatric Outpatient Adjustment Rate Year:

- 1) For hospitals with a Medicaid Inpatient Utilization Rate (MIUR) that is less than 75 percent, the product of:

A) the hospital's MIUR plus one, multiplied by  
B) the number of Pediatric Adjustable Outpatient Services, multiplied by

C) \$185¢70.

- 2) For hospitals with an MIUR that is greater than or equal to 75 percent, the product of:

A) one and one-half the hospital's MIUR plus one, multiplied by

B) the number of Pediatric Adjustable Outpatient Services, multiplied by

C) \$185¢70.

- c) In addition to the reimbursement rates described in subsection (b) above, hospitals that have an MIUR that is greater than or equal to 80 percent shall receive an additional \$250,000 \$500¢000 during the Pediatric Outpatient Adjustment Rate Year.

- d) Adjustments under this Section shall be paid on a quarterly basis.

e) Definitions

- 1) "Medicaid Inpatient Utilization Rate (MIUR)", as used in this Section, has the same meaning as ascribed in Section 148.120(k)(5), in effect for the rate period October 1, 1996, through September 30, 1997.

- 2) "Pediatric Adjustable Outpatient Services" means the number of outpatient services, excluding procedure code 0080, adjudicated through a UB92 billing form and grouped through the Hospital Ambulatory Care Groupings, as defined in Section 148.140(b)(1), during the Pediatric Outpatient Adjustment Base Period. For a hospital, which includes a facility devoted exclusively to caring for children, that is separately licensed as a hospital by a municipality, Pediatric Adjustment Outpatient Services will include psychiatric services (categories of service 27 or 28) for children less than 18 years of age, that are billed through the affiliated general care hospital.

- 3) "Pediatric Medicaid Outpatient Percentage" means a percentage that results from the quotient of the total Pediatric Adjustable Outpatient Services for persons less than 18 years of age divided by the total Pediatric Adjustable Outpatient Services for all persons, during the Pediatric Outpatient Adjustment Base Period.

- 4) "Pediatric Outpatient Adjustment Base Period" means all services billed to the Department, excluding procedure code 0080, with State Fiscal Year 1996 dates of service that were adjudicated by the Department on or before March 31, 1997.

- 5) "Pediatric Outpatient Adjustment Rate Year" means State Fiscal Year 1998 and each State Fiscal Year thereafter.

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days)

**Section 148.298 Pediatric Inpatient Adjustment Payments  
EMERGENCY**

Pediatric Inpatient Adjustment Payments shall be made to all eligible hospitals excluding county-owned hospitals, as described in Section 148.25(b)(1)(A), and hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B), for inpatient services occurring on or after July 1, 1998, in accordance with this Section.

- a) To qualify for payments under this Section, a hospital must be a children's hospital, as defined in 89 Ill. Adm. Code 149.50(c)(3), that was licensed by a municipality on or before December 31, 1997.

Hospitals qualifying under this Section shall receive an adjustment for inpatient services equal to the product of the hospital's psychiatric and physical rehabilitation days, provided to children under 18 years of age during the adjustment base year, multiplied by \$890 per day.

- b) The calculation under subsection (a) of this Section may not exceed more than 850 days.

- c) For the purposes of calculating payments under this Section, the adjustment base year shall be psychiatric and physical rehabilitation days of care provided by the portion of the hospital that the Department does not recognize as a children's hospital. Such days include those provided in State fiscal year 1997 and adjudicated by the Department through March 31, 1998.

(Source: Added by emergency rulemaking at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Long Term Care Reimbursement Changes

2) Code Citation: 89 Ill. Adm. Code 153

3) Section Numbers: 153.125  
Emergency Action: Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 90-588

5) Effective Date: July 1, 1998

6) If these Emergency Amendments are to expire before the end of the 150-day period, please specify the date on which it is to expire: Not Applicable

7) Date Filed in Agency's Principal Office: July 1, 1998

8) Reason for Emergency: These emergency amendments are being filed pursuant to the Governor's fiscal year 1999 budget plan and the enactment of the State's budget by the Legislature. Under Public Act 90-588, providers of services for Medical Assistance recipients by long term care facilities and developmental training agencies will receive rate increases beginning July 1, 1998. Emergency rulemaking is specifically authorized for the implementation of these reimbursement changes for fiscal year 1999 by Section 5-45 of Public Act 90-588.

9) Complete Description of the Subjects and Issues Involved: These emergency amendments to the Department's rules concerning long term care reimbursement are necessary to provide certain reimbursement increases, as required under Public Act 90-588, effective July 1, 1998.

Long term care facilities, including nursing homes (NF) and intermediate care facilities for persons with developmental disabilities (ICF/MR), will receive a three percent increase in the per diem rate paid for services provided to eligible Medical Assistance recipients. For nursing facilities, an increase of \$1.10 will be added to the nursing component of the facility rate. A three percent rate increase will also be effective for developmental training services for eligible recipients.

The Department anticipates an annual budgetary increase of \$72.7 million for the NF rate changes. The average per diem resulting from these provisions will be \$81.29.

The Department of Human Services expects an annual budgetary increase of \$9.3 million to result from increased ICF/MR reimbursements. The average per diem will be \$109.98.

10) Are there any other proposed amendments pending on this Part? Yes

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

Sections Proposed Action Illinois Register Citation

153.100 Amendment May 8, 1998 (22 Ill. Reg. 7888)

11) Statement of Statewide Policy Objectives: These emergency amendments do not affect units of local government.

12) Information and questions regarding these Emergency Amendments shall be directed to:

Joanne Jones  
Bureau of Rules and Regulations  
Illinois Department of Public Aid  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763  
(217) 524-0081

The full text of the Emergency Amendments begins on the next page:



## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER e: GENERAL TIME-LIMITED CHANGES

## PART 153

## LONG TERM CARE REIMBURSEMENT CHANGES

## Section

153.100 Reimbursement for Long Term Care Services

153.125 Long Term Care Facility Rate Adjustment

## EMERGENCY

153.150 Quality Assurance Review (Repealed)

**AUTHORITY:** Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, and VI and 12-13] and implementing Article III of the Illinois Health Finance Reform Act [20 ILCS 2215/Art. III].

**SOURCE:** Emergency rules adopted at 18 Ill. Reg. 2159, effective January 18, 1994, for maximum of 150 days; adopted at 18 Ill. Reg. 10154, effective June 17, 1994; emergency amendment at 18 Ill. Reg. 11380, effective July 1, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16669, effective November 1, 1994; emergency amendment at 19 Ill. Reg. 10245, effective June 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16281, effective November 27, 1995; emergency amendment at 20 Ill. Reg. 9306, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14840, effective November 1, 1996; emergency amendment at 21 Ill. Reg. 9568, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13633, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 13114, effective July 1, 1998, for a maximum of 150 days.

## Section 153.125 Long Term Care Facility Rate Adjustment

## EMERGENCY

a) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates established on July 1, 1996, shall be increased by 6.8 percent for services provided on or after January 1, 1997.

b) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates and day training rates established on July 1, 1998, for services provided on or after that date, shall be increased by three percent. For nursing facilities (SNF/ICF) only \$1.10 shall also be added to the nursing component of the rate.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 13114, effective July 1, 1998, for a maximum of 150 days)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part Medical Payment

2) Code Citation: 89 Ill. Adm. Code 140

3) Section Numbers: Emergency Action:  
140.461 Amendment  
140.463 Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Effective Date: July 1, 1998

6) If these Emergency Amendments are to expire before the end of the 150-day period, please specify the date on which it is to expire: Not Applicable

7) Date Filed in Agency's Principal Office: July 1, 1998

8) Reason for Emergency: These emergency amendments are necessary to allow immediate rate relief for certain clinics that are essential in providing prenatal and infant health care services for Medical Assistance recipients. The emergency amendments are also necessary to allow the Cook County Department of Public Health the flexibility of receiving encounter rates, rather than a fee-for-service rates, for certain clinics.

9) Complete Description of the Subjects and Issues Involved: These emergency amendments affecting the Department's administrative rules concerning clinic services are intended to provide reimbursement changes for encounter rate clinics. These changes are necessary to ensure access to essential prenatal and infant health care services for Medical Assistance clients. The changes also allow the Cook County Department of Public Health the flexibility of receiving encounter rates, rather than fee-for-service rates, for certain clinics.

These emergency changes are being made in response to discussions with the Cook County Bureau of Health Services and the Infant Welfare Society which provides services to Medical Assistance recipients and free comprehensive health services to pregnant women and infants who do not have health insurance.

The Department filed companion amendments to these emergency amendments, which were published in the *Illinois Register* on June 26, 1998, for the purpose of providing public notice of these changes.

The Department anticipates that these emergency amendments will result in an annual budgetary increase of approximately \$75,000.

10) Are there any other proposed amendments pending on this Part? Yes

DEPARTMENT OF PUBLIC AID

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

NOTICE OF EMERGENCY AMENDMENTS

Sections      Proposed Action      Illinois Register Citation

- 140.451      New Section      May 1, 1998 (22 Ill. Reg. 7534)  
140.461      Amendment      June 26, 1998 (22 Ill. Reg. 11005)  
140.463      Amendment      June 26, 1998 (22 Ill. Reg. 11005)

11) Statement of Statewide Policy Objectives: These emergency amendments do not affect units of local government.

12) Information and questions regarding these Emergency Amendments shall be directed to:

Joanne Jones  
Bureau of Rules and Regulations  
Illinois Department of Public Aid  
201 South Grand Avenue East  
Third Floor  
Springfield, Illinois 62763  
Telephone: (217) 524-0081

The full text of the Emergency Amendments begins on the next page:

TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140  
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

- |         |  |
|---------|--|
| Section | Incorporation By Reference   |
| 140.1   |  |
| 140.2   | Medical Assistance Programs  |
| 140.3   | Covered Services Under Medical Assistance Programs   |
| 140.4   | Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)  |
|         |  |
| 140.5   | Covered Medical Services Under General Assistance  |
| 140.6   | Medical Services Not Covered   |
| 140.7   | Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight  |
| 140.8   | Medical Assistance For Qualified Severely Impaired Individuals   |
| 140.9   | Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy |
|         |  |
| 140.10  | Medical Assistance Provided to Incarcerated Persons  |

SUBPART B: MEDICAL PROVIDER PARTICIPATION

- |         |  |
|---------|--|
| Section | Enrollment Conditions for Medical Providers  |
| 140.11  |  |
| 140.12  | Participation Requirements for Medical Providers   |
| 140.13  | Definitions  |
| 140.14  | Denial of Application to Participate in the Medical Assistance Program                               |
|         |  |
| 140.15  | Recovery of Money  |
| 140.16  | Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program |
| 140.17  | Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program                |
|         |  |
| 140.18  | Effect of Termination on Individuals Associated with Vendor  |
| 140.19  | Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring     |
|         |  |
| 140.20  | Submittal of Claims  |
| 140.21  | Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)                                |
| 140.22  | Magnetic Tape Billings   |
| 140.23  | Payment of Claims  |
| 140.24  | Payment Procedures   |
| 140.25  | Overpayment or Underpayment of Claims  |
| 140.26  | Payment to Factors Prohibited  |

## DEPARTMENT OF PUBLIC AID

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

## NOTICE OF EMERGENCY AMENDMENTS

140.27 Assignment of Vendor Payments  
 140.28 Record Requirements for Medical Providers  
 140.30 Audits  
 140.31 Emergency Services Audits  
 140.32 Prohibition on Participation, and Special Permission for Participation  
 140.33 Publication of List of Terminated, Suspended or Barred Entities  
 140.35 False Reporting and Other Fraudulent Activities  
 140.40 Prior Approval for Medical Services or Items  
 140.41 Prior Approval in Cases of Emergency  
 140.42 Limitation on Prior Approval  
 140.43 Post Approval for items or Services When Prior Approval Cannot Be Obtained  
 140.55 Recipient Eligibility Verification (REV) System  
 140.71 Reimbursement for Medical Services Through the Use of a C-13 Invoice  
 140.72 Voucher Advance Payment and Expedited Payments  
 140.73 Drug Manual (Recodified)  
 Drug Manual Updates (Recodified)

## SUBPART C: PROVIDER ASSESSMENTS

Section  
 140.80 Hospital Provider Fund  
 140.82 Developmentally Disabled Care Provider Fund  
 140.84 Long Term Care Provider Fund  
 140.94 Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund  
 Hospital Services Trust Fund  
 General Requirements (Recodified)  
 140.95 Special Requirements (Recodified)  
 140.97 Covered Hospital Services (Recodified)  
 140.98 Hospital Services Not Covered (Recodified)  
 140.99 Limitation on Hospital Services (Recodified)  
 140.100 Transplants (Recodified)  
 140.101 Heart Transplants (Recodified)  
 140.102 Liver Transplants (Recodified)  
 140.103 Bone Marrow Transplants (Recodified)  
 140.104 Disproportionate Share Hospital Adjustments (Recodified)  
 140.110 Payment for Inpatient Services for GA (Recodified)  
 140.116 Hospital Outpatient and Clinic Services (Recodified)  
 140.117 Payment for Hospital Services During Fiscal Year 1982 (Recodified)  
 140.200 Payment for Hospital Services After June 30, 1982 (Repealed)  
 140.201 Payment for Hospital Services During Fiscal Year 1983 (Recodified)  
 140.202 Limits on Length of Stay by Diagnosis (Recodified)  
 140.203 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)  
 140.300 Copayments (Recodified)  
 140.350 Payment Methodology (Recodified)  
 140.360

140.361 Non-Participating Hospitals (Recodified)  
 140.362 Pre July 1, 1989 Services (Recodified)  
 140.363 Post June 30, 1989 Services (Recodified)  
 140.364 Prepayment Review (Recodified)  
 140.365 Base Year Costs (Recodified)  
 140.366 Restructuring Adjustment (Recodified)  
 140.367 Inflation Adjustment (Recodified)  
 140.368 Volume Adjustment (Repealed)  
 140.369 Groupings (Recodified)  
 140.370 Rate Calculation (Recodified)  
 140.371 Payment (Recodified)  
 140.372 Review Procedure (Recodified)  
 140.373 Utilization (Repealed)  
 140.374 Alternatives (Recodified)  
 140.375 Exemptions (Recodified)  
 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)  
 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)  
 140.391 Definitions (Recodified)  
 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)  
 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)  
 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)  
 140.398 Hearings (Recodified)

## SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section  
 140.400 Payment to Practitioners, Nurses and Laboratories  
 140.410 Physicians' Services  
 140.411 Covered Services By Physicians  
 140.412 Services Not Covered By Physicians  
 140.413 Limitation on Physician Services  
 140.414 Requirements for Prescriptions and Dispensing of Pharmacy Items - Physicians  
 140.416 Optometric Services and Materials  
 140.417 Limitations on Optometric Services  
 140.418 Department of Corrections Laboratory  
 140.420 Dental Services  
 140.421 Limitations on Dental Services  
 140.422 Requirements for Prescriptions and Dispensing Items - Dentists  
 140.425 Podiatry Services  
 140.426 Limitations on Podiatry Services  
 140.427 Requirement for prescriptions and Dispensing of Pharmacy Items - Podiatry  
 140.428 Chiropractic Services



## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

|           |   |
|-----------|---|
| 140.429   | Limitations on Chiropractic Services (Repealed)                                       |
| 140.430   | Independent Laboratory Services   |
| 140.431   | Services Not Covered by Independent Laboratory  |
| 140.432   | Limitations on Independent Laboratory Services  |
| 140.433   | Payment for Laboratory Services   |
| 140.434   | Record Requirements for Independent Laboratories                                      |
| 140.435   | Nurse Services  |
| 140.436   | Limitations on Nurse Services   |
| 140.440   | Pharmacy Services   |
| 140.441   | Pharmacy Services Not Covered   |
| 140.442   | Prior Approval of Prescriptions   |
| 140.443   | Filling of Prescriptions  |
| 140.444   | Compounded Prescriptions  |
| 140.445   | Legend Prescription Items (Not Compounded)  |
| 140.446   | Over-the-Counter Items  |
| 140.447   | Reimbursement   |
| 140.448   | Returned Pharmacy Items   |
| 140.449   | Payment of Pharmacy Items   |
| 140.450   | Record Requirements for Pharmacies  |
| 140.452   | Mental Health Clinic Services   |
| 140.453   | Definitions   |
| 140.454   | Types of Mental Health Clinic Services  |
| 140.455   | Payment for Mental Health Clinic Services   |
| 140.456   | Hearings  |
| 140.457   | Therapy Services  |
| 140.458   | Prior Approval for Therapy Services   |
| 140.459   | Payment for Therapy Services  |
| 140.460   | Clinic Services   |
| 140.461   | Clinic Participation, Data and Certification Requirements                             |
| EMERGENCY |   |
| 140.462   | Covered Services in Clinics   |
| 140.463   | Clinic Service Payment  |
| EMERGENCY |   |
| 140.464   | Healthy Moms/Healthy Kids Managed Care Clinics (Repealed)                             |
| 140.465   | Speech and Hearing Clinics (Repealed)   |
| 140.466   | Rural Health Clinics  |
| 140.467   | Independent Clinics   |
| 140.469   | Hospice   |
| 140.470   | Home Health Services  |
| 140.471   | Home Health Covered Services  |
| 140.472   | Types of Home Health Services   |
| 140.473   | Prior Approval for Home Health Services   |
| 140.474   | Payment for Home Health Services  |
| 140.475   | Medical Equipment, Supplies and Prosthetic Devices                                    |
| 140.476   | Medical Equipment, Supplies and Prosthetic Devices for Which Payment Will Not Be Made |
| 140.477   | Limitations on Equipment, Supplies and Prosthetic Devices                             |
| 140.478   | Prior Approval for Medical Equipment, Supplies and Prosthetic Devices                 |

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

|                       |  |
|-----------------------|--|
| 140.479               | Limitations, Medical Supplies  |
| 140.480               | Equipment Rental Limitations   |
| 140.481               | Payment for Medical Equipment, Supplies and Prosthetic Devices                               |
| 140.482               | Family Planning Services   |
| 140.483               | Limitations on Family Planning Services  |
| 140.484               | Payment for Family Planning Services   |
| 140.485               | Healthy Kids Program   |
| 140.486               | Limitations on Medichesk Services (Repealed)   |
| 140.487               | Healthy Kids Program Timeliness Standards  |
| 140.488               | Periodicity Schedule, Immunizations and Diagnostic Laboratory Procedures                     |
| 140.490               | Medical Transportation   |
| 140.491               | Limitations on Medical Transportation  |
| 140.492               | Payment for Medical Transportation   |
| 140.493               | Payment for Helicopter Transportation  |
| 140.495               | Psychological Services   |
| 140.496               | Payment for Psychological Services   |
| 140.497               | Hearing Aids   |
| SUBPART E: GROUP CARE |  |
| Section               |  |
| 140.500               | Long Term Care Services  |
| 140.502               | Cessation of Payment at Federal Direction  |
| 140.503               | Cessation of Payment for Improper Level of Care  |
| 140.504               | Cessation of Payment Because of Termination of Facility                                      |
| 140.505               | Continuation of Payment Because of Threat To Life (Repealed)                                 |
| 140.506               | Provider Voluntary Withdrawal  |
| 140.507               | Continuation of Provider Agreement   |
| 140.510               | Determination of Need for Group Care   |
| 140.511               | Long Term Care Services Covered by Department Payment  |
| 140.512               | Utilization Control  |
| 140.513               | Utilization Review Plan (Repealed)   |
| 140.514               | Certifications and Recertifications of Care  |
| 140.515               | Management of Recipient Funds--Personal Allowance Funds                                      |
| 140.516               | Recipient Management of Funds  |
| 140.517               | Correspondent Management of Funds  |
| 140.518               | Facility Management of Funds   |
| 140.519               | Use or Accumulation of Funds   |
| 140.520               | Management of Recipient Funds--Local Office Responsibility                                   |
| 140.521               | Room and Board Accounts  |
| 140.522               | Reconciliation of Recipient Funds  |
| 140.523               | Bed Reserves   |
| 140.524               | Cessation of Payment Due to Loss of License  |
| 140.525               | Quality Incentive Program (QUIP) Payment Levels  |
| 140.526               | Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP) (Repealed) |
| 140.527               | Quality Incentive Survey (Repealed)  |

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

|         |  |
|---------|--|
| 140.528 | Payment of Quality Incentive (Repealed)  |
| 140.529 | Reviews (Repealed)   |
| 140.530 | Basis of Payment for Long Term Care Services   |
| 140.531 | General Service Costs  |
| 140.532 | Health Care Costs  |
| 140.533 | General Administration Costs   |
| 140.534 | Ownership Costs  |
| 140.535 | Costs for Interest, Taxes and Rent   |
| 140.536 | Organization and Pre-Operating Costs   |
| 140.537 | Payments to Related Organizations  |
| 140.538 | Special Costs  |
| 140.539 | Reimbursement for Basic Nursing Assistant, Developmental Disabilities Aide, Basic Child Care Aide and Habilitation Aide Training and Nursing Assistant Competency Evaluation |
| 140.540 | Costs Associated With Nursing Home Care Reform Act and Implementing Regulations  |
| 140.541 | Salaries Paid to Owners or Related Parties   |
| 140.542 | Cost Reports-Filing Requirements   |
| 140.543 | Time Standards for Filing Cost Reports   |
| 140.544 | Access to Cost Reports (Repealed)  |
| 140.545 | Penalty for Failure to File Cost Reports   |
| 140.550 | Update of Operating Costs  |
| 140.551 | General Service Costs  |
| 140.552 | Nursing and Program Costs  |
| 140.553 | General Administrative Costs   |
| 140.554 | Component Inflation Index  |
| 140.555 | Minimum Wage   |
| 140.560 | Components of the Base Rate Determination  |
| 140.561 | Support Costs Components   |
| 140.562 | Nursing Costs  |
| 140.563 | Capital Costs  |
| 140.565 | Kosher Kitchen Reimbursement   |
| 140.566 | Out-of-State Placement   |
| 140.567 | Level II Incentive Payments (Repealed)   |
| 140.568 | Duration of Incentive Payments (Repealed)  |
| 140.569 | Clients With Exceptional Care Needs  |
| 140.570 | Capital Rate Component Determination   |
| 140.571 | Capital Rate Calculation   |
| 140.572 | Total Capital Rate   |
| 140.573 | Other Capital Provisions   |
| 140.574 | Capital Rates for Rented Facilities  |
| 140.575 | Newly Constructed Facilities (Repealed)  |
| 140.576 | Renovations (Repealed)   |
| 140.577 | Capital Costs for Rented Facilities (Renumbered)   |
| 140.578 | Property Taxes   |
| 140.579 | Specialized Living Centers   |
| 140.580 | Mandated Capital Improvements (Repealed)   |
| 140.581 | Qualifying as Mandated Capital Improvement (Repealed)  |

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

|   |   |
|---|---|
| 140.582                                 | Cost Adjustments  |
| 140.583                                 | Campus Facilities   |
| 140.584                                 | Illinois Municipal Retirement Fund (IMRF)   |
| 140.590                                 | Audit and Record Requirements   |
| 140.642                                 | Screening Assessment for Nursing Facility and Alternative Residential Settings and Services   |
| 140.643                                 | In-Home Care Program  |
| 140.645                                 | Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21  |
| 140.646                                 | Reimbursement for Developmental Training (DT) Services for Individuals with Developmental Disabilities Who Reside in Long Term Care (ICF AND SNF) and Residential (ICF/MR) Facilities |
| 140.647                                 | Description of Developmental Training (DT) Services   |
| 140.648                                 | Determination of the Amount of Reimbursement for Developmental Training (DT) Programs   |
| 140.649                                 | Effective Dates of Reimbursement for Developmental Training (DT) Programs   |
| 140.650                                 | Certification of Developmental Training (DT) Programs   |
| 140.651                                 | Decertification of Day Programs   |
| 140.652                                 | Terms of Assurances and Contracts   |
| 140.680                                 | Effective Date Of Payment Rate  |
| 140.700                                 | Discharge of Long Term Care Residents   |
| 140.830                                 | Appeals of Rate Determinations  |
| 140.835                                 | Determination of Cap on Payments for Long Term Care (Repealed)  |
| SUBPART F: MEDICAID PARTNERSHIP PROGRAM |   |
| Section                                 |   |
| 140.850                                 | General Description (Repealed)  |
| 140.855                                 | Definition of Terms (Repealed)  |
| 140.860                                 | Covered Services (Repealed)   |
| 140.865                                 | Sponsor Qualifications (Repealed)   |
| 140.870                                 | Sponsor Responsibilities (Repealed)   |
| 140.875                                 | Department Responsibilities (Repealed)  |
| 140.880                                 | Provider Qualifications (Repealed)  |
| 140.885                                 | Provider Responsibilities (Repealed)  |
| 140.890                                 | Payment Methodology (Repealed)  |
| 140.895                                 | Contract Monitoring (Repealed)  |
| 140.896                                 | Reimbursement For Program Costs (Active Treatment) For Clients In Long Term Care Facilities For the Developmentally Disabled (Recodified)   |
| 140.900                                 | Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities (Recodified)   |
| 140.901                                 | Functional Areas of Needs (Recodified)  |
| 140.902                                 | Service Needs (Recodified)  |
| 140.903                                 | Definitions (Recodified)  |
| 140.904                                 | Times and Staff Levels (Repealed)   |
| 140.905                                 | Statewide Rates (Repealed)  |

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

140.906 Reconsiderations (Recodified)  
 140.907 Midnight Census Report (Recodified)  
 140.908 Times and Staff Levels (Recodified)  
 140.909 Statewide Rates (Recodified)  
 140.910 Referrals (Recodified)  
 140.911 Basic Rehabilitation Aide Training Program (Recodified)  
 140.912 Interim Nursing Rates (Recodified)

## SUBPART G: MATERNAL AND CHILD HEALTH PROGRAM

Section  
 140.920 General Description  
 140.922 Covered Services  
 140.924 Maternal and Child Health Provider Participation Requirements  
 140.926 Client Eligibility (Repealed)  
 140.928 Client Enrollment and Program Components (Repealed)  
 140.930 Reimbursement  
 140.932 Payment Authorization for Referrals (Repealed)

## SUBPART H: ILLINOIS COMPETITIVE ACCESS AND REIMBURSEMENT EQUITY (ICARE) PROGRAM

Section  
 140.940 Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Recodified)  
 140.942 Definition of Terms (Recodified)  
 140.944 Notification of Negotiations (Recodified)  
 140.946 Hospital Participation in ICARE Program Negotiations (Recodified)  
 140.948 Negotiation Procedures (Recodified)  
 140.950 Factors Considered in Awarding ICARE Contracts (Recodified)  
 140.952 Closing an ICARE Area (Recodified)  
 140.954 Administrative Review (Recodified)  
 140.956 Payments to Contracting Hospitals (Recodified)  
 140.958 Admitting and Clinical Privileges (Recodified)  
 140.960 Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)  
 140.962 Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)  
 140.964 Contract Monitoring (Recodified)  
 140.966 Transfer of Recipients (Recodified)  
 140.968 Validity of Contracts (Recodified)  
 140.970 Termination of ICARE Contracts (Recodified)  
 140.972 Hospital Services Procurement Advisory Board (Recodified)

TABLE A Medicare Recommended Screening Procedures (Repealed)  
 TABLE B Geographic Areas  
 TABLE C Capital Cost Areas  
 TABLE D Schedule of Dental Procedures

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

TABLE E Time Limits for Processing of Prior Approval Requests  
 TABLE F Podiatry Service Schedule  
 TABLE G Travel Distance Standards  
 TABLE H Areas of Major Life Activity  
 TABLE I Staff Time and Allocation for Training Programs (Recodified)  
 TABLE J HSA Grouping (Repealed)  
 TABLE K Services Qualifying for 10% Add-On (Repealed)  
 TABLE L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Repealed)  
 TABLE M Enhanced Rates for Maternal and Child Health Provider Services

AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act [20 ILCS 2215/Art. III] and implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment



## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.913 and 140.914 recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.206 and 147.207; amended at 11 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg.

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; Section 140.569 withdrawn at 15 Ill. Reg. 1174; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 15 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

maximum of 150 days; emergency amendment suspended effective October 12, 1993; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 5929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. **13112**, effective July 1, 1998, for a maximum of 150 days.

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.461 Clinic Participation, Data and Certification Requirements  
EMERGENCY



## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

## a) Hospital-based organized clinics must:

- 1) Have an administrative structure, staff program, physical setting, and equipment to provide comprehensive medical care;
  - 2) Agree to assume complete responsibility for diagnosis and treatment of the patients accepted by the clinic, or provide, at no additional cost to the Department, for the acquisition of these services through contractual arrangements with external medical providers;
  - 3) Be adjacent to or on the premises of the hospital and be licensed under the Hospital Licensing Act or the University of Illinois Hospital Act; and
  - 4) Meet the applicable requirements of 89 Ill. Adm. Code 148.40(d).
- b) Encounter rate clinics must participate in the Medical Assistance Program as an encounter rate clinic as of July 1, 1998, or be a clinic operated by a county with a population of over three million. Individual practitioners associated with such centers may apply for participation in the Medical Assistance Program in their individual capacities. In order to participate in the Maternal and Child Health Program, as described in Subpart G, encounter rate clinics shall be required to meet the additional participation requirements described in Section 140.924(a)(2).
- c) Rural health clinics must be certified by the Health Care Financing Administration as meeting the requirements for Medicaid participation.
- d) Federally Qualified Health Centers (FQHC):

- 1) Must be Health Centers which:
  - A) receive a grant under Section 329, 330 or 340 of the Public Health Service Act; or
  - B) based on the recommendation of the Health Resources and Services Administration within the Public Health Service, are determined to meet the requirements for receiving such a grant.
- 2) Section 4602 of the Omnibus Budget Reconciliation Act of 1990 (OBRA 90), which amended Section 1902(a)(55) of the Social Security Act (42 U.S.C. Section 1396a(a)(55)), requires states to receive and initially process Medicaid applications from low-income pregnant women and children under the age of 19 at locations other than the local Department of Human Services (DHS) Public-Aid office. Such a site is referred to as an outstation.
  - A) Outstations will be located at those FQHCs which the Department determines serve heavy Medicaid populated areas. For areas in which the Department determines that maintaining outstation workers is not economical, the DHS local Public-Aid office will continue to be the application location.
  - B) The FQHCs, which will provide outstation eligibility staff to accept and assist in the initial processing of the Medicaid BPA--2378ME application for pregnant women and

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

children, will forward the completed application to the appropriate DHS BPA local office. Initial processing means accepting and completing the application, providing information and referrals, obtaining required documentation to complete processing of the application, assuring that the information contained on the application form is complete and conducting any necessary interviews. Neither the FQHCs nor the outstation workers will evaluate the information contained on the application, nor make any determination of eligibility or ineligibility. The DHS BPA local office is responsible for these functions.

- C) Costs allowable under the federal outstation mandate for completing Medicaid application form--BPA--2378ME will be itemized in Section B of Schedule I of the FQHC Medicaid cost report and will be provided annually in the FQHC cost reporting process. These allowable costs will be collected, computed and calculated, and will result in the establishment of an outstation administrative rate and a Medicaid rate. The allowable costs are:

- i) Salary of outstation worker;
- ii) Fringe benefits;
- iii) Training;
- iv) Travel; and
- v) Supplies.

- D) FQHC outstation workers must receive certification through Maternal and Child Health (MCH) process training by the Department before they begin to perform eligibility processing functions. Failure to become certified results in any MCH application completed by an ineligible worker being non-allowed on the cost report.

- E) FQHCs must have adequate staff trained with proper backup to accommodate unforeseen problems. FQHCs must be able to meet the demand of this initiative, either using staff at one location or rotating staff as dictated by workload or staffing availability. The FQHC must have staff available at each outstation location during regular office operating hours.

- F) Outstation intake staff may perform other FQHC intake processing functions, but the time spent on outstation activities must be documented and must be identifiable for cost reporting and auditing purposes.

- G) The FQHC must display a notice in a prominent place at the outstation location advising potential applicants of the times that outstation intake workers will be available. The notice must include a telephone number that applicants may call for assistance.

- H) The FQHC must comply with federal and State laws and regulations governing the provision of adequate notice to



## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

persons who are blind or deaf or who are unable to read or understand the English language.

- e) Individual practitioners associated with such centers may apply for participation in the Medical Assistance Program in their individual capacities.

f) Maternal and Child Health Clinics

1) Types of Clinics

The following clinics shall qualify as Maternal and Child Health Clinics:

- A) Certified Hospital Ambulatory Primary Care Centers (CHAPCC), which are hospital-based organized outpatient clinics, as described in subsection (a) above, meeting the participation, data and certification requirements described in subsections (f)(2) through (f)(5) below, that, through staff and supporting resources, provide ambulatory primary care to Medicaid children from birth through 20 years of age, and pregnant women in a non-emergency room setting. At least 50 percent of all staff physicians providing care in a CHAPCC must routinely provide obstetric, pediatric, internal medicine, or family practice care in the clinic setting, and at least 50 percent of patient visits to the CHAPCC must be for primary care.

- B) Certified Hospital Organized Satellite Clinics (CHOSC), which are clinics meeting the participation, data and certification requirements described in subsections (f)(2) through (f)(5) below, that are owned, operated, and/or managed by a hospital but do not qualify as hospital-based organized clinics, as described in subsection (a) above, because they are not located adjacent to or on the premises of the hospital or are not licensed under the Hospital Licensing Act or the University of Illinois Hospital Act. Through staff and supporting resources, these clinics provide ambulatory primary care in a non-emergency setting to Medicaid children from birth through 20 years of age, and to pregnant women. At least 50 percent of all staff physicians providing care in a CHOSC must routinely provide obstetric, pediatric, internal medicine, or family practice care in the clinic setting, and at least 50 percent of patient visits to the CHOSC must be for primary care. Primary care consists of basic health services provided by a physician or other qualified medical professional to maintain the day-to-day health status of a patient, without requiring the level of medical technology and specialized expertise necessary for the provision of secondary and tertiary care. CHOSCs shall meet the requirements in subsections (a)(1) and (a)(2) above.

- C) Certified Obstetrical Ambulatory Care Centers (COBACC), which are hospital-based organized clinic entities, as

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

described in subsection (a) above, meeting the participation, data and certification requirements described in subsections (f)(2) through (f)(5) below, that, through staff and supporting resources, provide primary care and specialty services to Medicaid-eligible pregnant women, especially those determined to be non-compliant or at high risk, in an outpatient setting.

- D) Certified Pediatric Ambulatory Care Centers (CPACC), which are hospital-based organized clinic entities, as described in subsection (a) above, owned and operated by a hospital as described in 89 Ill. Adm. Code 149.50(c)(3), and meeting the participation, data and certification requirements described in subsections (f)(2) through (f)(5) below, that, through staff and supporting resources, provide pediatric primary care and specialty services as described in Section 140.462(e)(3)(C) to Medicaid enrolled children with specialty needs, from birth through 20 years of age in an outpatient setting. Hospitals with CPACCs must also provide primary care for at least 1,500 children, either through its CPACC or through a CHAPCC, CHOSC or encounter rate clinic operated by the same hospital. Hospitals unable to meet this volume requirement must agree to serve as a specialty referral site for another hospital operating a CPACC through a written agreement submitted to the Department.

2) General Participation Requirements

In addition to the Maternal and Child Health participation requirements described in Section 140.924(a)(1), the Maternal and Child Health clinics identified in subsection (f)(1) above must:

- A) Be operated by a disproportionate share hospital, as described in 89 Ill. Adm. Code 148.120, be staffed by board certified/eligible physicians who have hospital admitting and/or delivery privileges, be operated by a hospital in an organized corporate network of hospitals having a total of more than 1,000 staffed beds, and agree to provide care for a minimum of 100 pregnant women or children; or be a primary care teaching site of an organized academic department of:
- i) In the case of clinics described in subsections (f)(1)(A) and (f)(1)(B) above, a pediatric or family practice residency program accredited by the American Accreditation Council for Graduate Medical Education.
  - or other published source of accrediting information.
  - ii) In the case of clinics described in subsection (f)(1)(C) above, an obstetrical residency program accredited by the American Accreditation Council for Graduate Medical Education or other published source of accrediting information with at least 130 full-time equivalent residents.
  - iii) In the case of clinics described in subsection

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

(f)(1)(D) above, a pediatric or family practice residency program accredited by the American Accreditation Council for Graduate Medical Education or other published source of accrediting information with at least 130 full-time equivalent residents;

B) Under the direction of a board certified/eligible physician who has hospital admitting and/or delivery privileges and provides direct supervision to residents practicing in the certified ambulatory site, provide:

i) In the case of clinics described in subsections (f)(1)(A) and (f)(1)(B) above, primary care.

ii) In the case of clinics described in subsection (f)(1)(C) above, obstetric and specialty services.

iii) In the case of clinics described in subsection (f)(1)(D) above, primary care and specialty services;

C) Maintain a formal, ongoing quality assurance program that meets the minimum standards of the Joint Commission on Accreditation of Health Care Organizations (JCAHO);

D) Provide historical evidence of fiscal solvency and financial projections for the future, in a manner specified by the Department; and

E) Utilize a formal client tracking and care management system that affords timely maintenance of, access to, and continuity of medical records without compromising client confidentiality.

## 3) Special Participation Requirements

In addition to the Maternal and Child Health provider participation requirements described in Section 140.924(a)(1), and the general participation requirements described in subsection (f)(2) above, special participation requirements shall apply as follows:

A) Clinics described in subsections (f)(1)(A) and (f)(1)(B) above must:

i) Serve a total population that includes at least 20% Medicaid and medically indigent clients;

ii) Perform a risk assessment on pregnant women assigned to them in order to determine if the woman is at high risk; and

iii) Provide or arrange for specialty services when needed by pregnant women or children.

B) Clinics described in subsection (f)(1)(C) must:

i) Be a distinct department of a hospital that also operates as a Level II or Level III perinatal center;

ii) Provide services to pregnant women demonstrating the need for extensive health care services due to complicated medical conditions placing them potentially at high risk of abnormal delivery, including substance abuse or addiction problems.

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

Hospital clinics will not qualify to participate unless they provide both primary and specialty services to women who currently are Medicaid clients, or Medicaid-eligible women who receive services at the COBACC; in this capacity, COBACCs, as perinatal centers, shall serve pregnant women determined to be at high risk of abnormal delivery;

iii) Operate a designated 24-hour per day emergency referral site with a defined practice for the care of obstetric emergencies;

iv) Have an established program of services for the treatment of substance-abusing pregnant women;

v) Integrate an accredited obstetrical residency program with subspecialty residency programs to encourage future physicians to devote part of their professional services to disadvantaged and underserved high-risk pregnant women; and

vi) Operate organized ambulatory clinics for pregnant women that are easily accessible to the medically underserved.

C) Clinics described in subsection (f)(1)(D) above must:

i) Provide primary and specialty services for children demonstrating the need for extensive health care services due to a chronic condition as described in Section 140.462(e)(3)(C);

ii) Operate a designated 24-hour per day emergency referral site with a defined practice for the care of pediatric emergencies;

iii) Provide access to necessary pediatric primary and specialty services within 24 hours after referral;

iv) Be a distinct department of a disproportionate share hospital, as described in 89 Ill. Adm. Code 148.120(a)(5);

v) Integrate an accredited pediatric or family practice residency program with subspecialty residency programs to encourage future physicians to devote part of their professional services to disadvantaged and underserved children with specialty needs; and

vi) Operate organized ambulatory clinics for children that are easily accessible to the medically underserved.

## 4) Data Requirements

The Maternal and Child Health clinics described in subsection (f)(1) above shall be required to submit patient level historical data to the Department, which may include, but shall not be limited to historical data on the use of the hospital emergency room department.

## 5) Certification Requirements

Certification of qualifying status of a Maternal and Child Health

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

clinic identified in subsection (f)(1) above shall occur annually during the first two years of participation and every other year thereafter. In addition:

A) The certification process shall consist of a review of the completed application and related materials to determine provisional certification status. Those centers submitting approved applications shall then be reviewed on-site by Department staff within 60 days after application approval. Final notification of certification status shall be rendered within 30 days after the site review, pending provider submittal of a written plan of correction for any deficiencies discovered during the entire application process.

B) Entities interested in becoming a Maternal and Child Health clinic must direct a written request for an application packet to the following address:

Maternal and Child Health Clinic  
Certification

Bureau of Hospital Services  
Illinois Department of Public Aid  
201 South Grand Avenue East, Concourse  
Springfield, Illinois 62763-0001

C) Certification status shall be suspended for Maternal and Child Health clinics identified in subsection (f)(1) above that do not submit data to the Department, as required under subsection (f)(4) above, within 180 days after the Department's request for the submittal of such data.

(Source: Emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998 for a maximum of 150 days)

## Section 140.463 Clinic Service Payment

## EMERGENCY

a) Hospital-Based Organized Clinics

1) With respect to those hospital-based organized clinics that qualify as Maternal and Child Health clinics, as described in Section 140.461(f)(1), payment shall be in accordance with Section 140.930.

2) With respect to all other hospital-based organized clinics, payment shall be in accordance with 89 Ill. Adm. Code 148.140.

b) Encounter Rate Clinics ~~Entity--Payment shall be made at the lesser of:~~  
1) For encounter rate clinics providing comprehensive health care for women and infants or encounter rate clinics operated by a county with a population of over three million, payment shall be made at the lesser of:

- A) \$50 per encounter; or
- B) the clinic charge to the general public. ~~The--entity's~~

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

~~approved--all-inclusive-interim-per-encounter-rate-as-of-May 17-1991; or~~

2) For all other encounter rate clinics, payment shall be made at the lesser of:

- A) The clinic's approved all inclusive interim per encounter rate as of May 1, 1981; or
- B) \$50 per encounter; or
- C) the clinic charge the general public. ~~\$50-00-per--encounter; or~~

3) ~~the-charge-to-the-general-public-~~

c) Federally Qualified Health Centers (FQHC)

1) Medical Encounter Rate

A) Payment for services rendered after March 31, 1990, shall be made at an individual, all inclusive, prospective per diem rate calculated on the basis of the Department's encounter rate methodology and audited provider fiscal information reported on the Medicaid Free-standing Federally-Funded Health Center Worksheet (Health Care Financing Administration Form 242), as supplemented by FQHC Medicaid Supplemental Schedules A, B and C reflecting the actual costs of delivering encounter services as listed in Section 140.462(d)(2).

B) All cost reports will be audited by the Department to determine allowable costs for rate setting. The provider will be advised of any adjustments resulting from these audits.

C) New rates effective each July 1 will be based on certified cost information from the provider's most recently audited fiscal year.

D) Allowable costs will be updated to the midpoint of the rate year by an inflation factor derived from published economic indices.

E) Interim payment for covered services rendered by FQHCs enrolled as of March 31, 1990, for which no audited costs are available shall be made at the individual FQHC rate in effect on March 31, 1990, as established by the Department.

F) Interim payment for covered services rendered by FQHCs enrolled between March 31, 1990 and January 1, 1991, shall be made at the higher of:

- i) the provider's approved Medicare rate established by the designated Federal intermediary for Rural Health Center or Federally Funded Health Center Services; or
  - ii) the 75th percentile of the statewide range of the Department's established encounter clinic rates (as defined in subsection (a) above) as of March 31, 1990.
- G) Payment shall be made at the interim rate to FQHCs enrolled before January 1, 1991, for covered services rendered from the later of the date of enrollment or April 1, 1990, until



## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

the certified date of provider receipt of the cost-based rate established by the Department for that provider.

- H) When an individual cost-based rate has been established by the Department in accordance with the method described in subsection (c)(1)(A) above, the Department shall reconcile interim payments made for covered services.

i) Rate retroactivity from April 1, 1990, will only apply to clinics enrolled as of March 31, 1990, which submit an application to the Public Health Service for Federally Qualified Health Center status by November 1, 1990, and are subsequently designated as federally qualified.

ii) If the cost-based rate is higher than the interim rate, the Department shall pay the provider the rate differential for each claim paid at the interim rate.

iii) If the cost-based rate is lower than the interim rate, the provider shall refund to the Department the rate differential for each claim paid at the interim rate, either by direct payment to the Department or as a credit applied against future service claims.

- I) Interim payment for covered services rendered by FQHCs enrolled on or after January 1, 1991, shall be made at the higher of:

i) the provider's approved Medicare rate established by the designated federal intermediary for Rural Health Centers and Federally Funded Health Centers Services; or

ii) the median of the statewide range of the Department's established cost-based FQHC rates in effect at the time of enrollment.

- J) Payment shall be made at the interim rate for Centers enrolled on or after January 1, 1991, for covered services rendered between the date of enrollment and 30 days after the date of Department receipt of the complete and correct cost report of the provider. Payment for covered medical services rendered by the provider 30 days after Department receipt of the provider's complete and correct cost report will be made at the rate determined on the basis of the submitted cost report and the Department's FQHC rate methodology.

- K) If the FQHC has not submitted the required audited fiscal information on the forms specified in subsection (c)(1)(A) of this Section within 90 days of the certified date of receipt of the forms, the Department shall suspend payment for covered medical services until the required information is received by the Department, unless the enrolled Center has been in operation less than one year and has no audited cost history.

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

- L) Enrolled FQHCs which have been in operation less than one year and have no audited cost history must submit required audited fiscal information reflecting the first six months of operation on the forms specified in subsection (c)(1)(A) of this Section, within 90 days after the later of the end of the sixth month of operation or the certified mail date of receipt of the forms. The rate calculated from these costs will be in effect for services rendered on and after the first day of the month following the month of receipt of the required fiscal information by the Department.

- M) The Department will not process a claim for payment of FQHC services rendered after June 30, 1990, that does not indicate all individual medical services delivered during the encounter, by procedure code.

## 2) Dental Encounter Rate

- A) Payment for dental services rendered after March 31, 1990, shall be made at an individual, all inclusive, prospective per diem rate calculated on the basis of the Department's encounter rate methodology and audited provider fiscal information reported on the Medicaid Free-standing Federally-Funded Health Center Worksheet (Health Care Financing Administration Form 242), as supplemented by FQHC Medicaid supplemental Schedules A, B, and C reflecting the actual costs of delivering dental services.

- B) Direct costs related to operation of the clinic in order to provide allowable dental services will be reported on the cost report and used in the rate calculation process.

- C) All cost reports will be audited by the Department to determine allowable costs for rate setting. The provider will be advised of any adjustments resulting from these audits.

- D) New rates effective each July 1 will be based on certified cost information from the provider's most recently audited fiscal year.

- E) Allowable costs will be updated to the mid point of the rate year by an inflation factor derived from published economic indices.

- F) Payment for covered dental services shall be made by the Department's prepaid dental service contractor.

- G) When an individual cost-based rate has been established by the Department in accordance with the method described in subsection (c)(2)(A) above, the Department's prepaid dental service contractor shall reconcile interim payments made for covered dental services.

- i) Rate retroactivity will only apply to clinics enrolled as of March 31, 1990 which submit an application to the Public Health Service for Federally Qualified Health Center status by November 1, 1990, and are

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

- subsequently designated as federally qualified.
- ii) If the cost-based rate is higher than the interim rate, the Department's prepaid dental service contractor shall pay the provider the rate differential for each claim paid at the interim rate.
  - iii) If the cost-based rate is lower than the interim rate, the provider shall refund to the Department the rate differential for each claim paid at the interim rate.
- H) Interim payment for covered dental services rendered by FQHCs enrolled on or after January 1, 1991 shall be made at the median of the statewide range of the Department's established cost-based FQHC dental rates in effect at the time of enrollment.
- I) Payment shall be made at the interim rate for Centers enrolled on or after January 1, 1991, for covered dental services rendered between the date of enrollment and 30 days after the date of the Department receipt of the complete and correct cost report of the provider. Payment for covered dental services rendered by the provider after 30 days of Department receipt of the provider's complete and correct cost report will be made at the rate determined on the basis of the submitted cost report and the Department's FQHC rate.
- J) If the FQHC has not submitted the required audited fiscal information on the forms specified in subsection (c)(2)(A) above within 90 days of the certified mail date of receipt of the forms, the Department's prepaid dental service contractor shall suspend payment for covered dental services until the required information is received by the Department, unless the enrolled Center has been in operation less than one year and has no audited cost history.
- K) Enrolled FQHCs which have been in operation less than one year and have no audited cost history must submit required audited fiscal information reflecting the first six months of operation on the forms specified in subsection (c)(2)(A) within 90 days after the later of the end of the sixth month of operation or the certified date of receipt of the forms. The rate calculated from these costs will be in effect for dental services rendered on and after the first day of the month following the month of receipt of the required fiscal information by the Department.
- 3) Rate Appeals Process
- A) All appeals of audit adjustments or rate determinations must be submitted in writing to the Department. Appeals submitted within 30 calendar days of the rate notification, if upheld, shall be made effective as of the beginning of the rate year. The effective date of all other upheld appeals shall be the first day of the month following the date the completed appeal was submitted. Appeals for any

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

- rate year must be filed before the close of the rate year.
- B) To be accepted for review, the written appeal shall include:
- i) The current approved reimbursement rate, allowable costs, and the additional reimbursable costs sought through the appeal;
  - ii) A clear, concise statement of the basis for the appeal;
  - iii) A detailed statement of financial, statistical, and related information in support of the appeal, indicating the relationship between the additional reimbursable costs as submitted and the circumstances creating the need for increased reimbursement;
  - iv) A citation to any mandated or contractual requirement pertinent to the appeal; and
  - v) A statement by the provider's chief executive officer or financial officer that the application of the rate appeal and information contained in the vendor's reports, schedules, budgets, books, and records submitted are true and accurate.
- C) Rate appeals may be considered for the following reasons:
- i) Mechanical or clerical errors committed by the provider in reporting historical expenses used in the calculation of allowable costs.
  - ii) Mechanical or clerical errors committed by the Department in auditing historical expenses as reported and/or in calculating reimbursement rates.
  - iii) The Department and the provider have entered into a written agreement to amend, alter, or modify substantive programmatic or management procedures attendant to the delivery of services, which have a substantial impact upon the costs of service delivery.
  - iv) Substantial treatment service charges are required as a result of mandated regulatory charges.
  - v) Substantial changes in the physical plant are required as a result of mandated licensure requirements. In such instances, the provider must submit a plan of corrections for capital improvements approved by the licensing authority, along with the required cost information.
  - vi) State and/or Federal regulatory requirements have generated a substantial increase in allowable costs.
- D) The Department shall rule on all appeals within 120 calendar days of receipt of the appeal except that, if additional information is required from the facility, the period shall be extended until such time as the information is provided.
- E) Appeals shall be submitted to the Department's Bureau of Comprehensive Health Services, 3rd floor Bloom Building, 201 South Grand Avenue East, Springfield, Illinois 62763.

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

d) Maternal and Child Health Clinics. Payment shall be made in accordance with Section 140.930.

e) Transitional Payments for FQHCs and Certain Encounter Rate Clinics

- 1) Certain clinics will be eligible to receive monthly transitional payments for managing the health care needs of certain clients under their care beginning December 1996. Certain clinics will be eligible to receive transitional payments for the month of December 1996, and monthly thereafter, under the conditions described in this subsection. To receive monthly transitional payments, clinics must:

- A) be either:
  - i) a Federally Qualified Health Center, as defined in Section 140.462(d), or
  - ii) an Encounter Rate Clinic, as defined in Section 140.462(b), that has provided comprehensive health services to Medicaid clients prior to December 1996;
- B) have a signed transitional payment contract with the Department; and
- C) have a contract with a Health Maintenance Organization (HMO) or Prepaid Health Plan (PHP) that has a contract to provide comprehensive health services, or, upon the implementation of MediPlan Plus, have a contract with a Managed Care Entity (MCE). When MediPlan Plus is implemented, HMOs, PHPs or Managed Care Community Networks (MCCNs) may serve as MCEs (see 89 Ill. Adm. Code 142.110 for definition of terms).

2) Transitional payments to a clinic will consist of a per member per month payment for any Illinois Medicaid client enrolled with an HMO or PHP or, upon the implementation of MediPlan Plus, an MCE, for whom the clinic was their assigned care provider on the last day of the month.

3) For the first six months covered under a transitional payment contract, the Department will make transitional payments for any number of Medicaid clients enrolled with an HMO, PHP or MCCN and assigned to the qualifying clinic as their primary care site. Thereafter, qualified clinics will receive transitional payments for a given month only if the total number of Medicaid clients enrolled with an HMO, PHP or MCCN and assigned to the qualifying clinic, meets or exceeds the following threshold levels established in the qualifying clinic's transitional payment contract for that month:

- A) For the seventh through twelfth month, such threshold shall equal 20 percent of the qualifying clinic's Medicaid patient base;
- B) For the thirteenth through eighteenth month, such threshold shall equal 30 percent of the qualifying clinic's Medicaid patient base;
- C) For the nineteenth through twenty-fourth month, such threshold shall equal 40 percent of the qualifying clinic's

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

Medicaid patient base;

D) For the twenty-fifth month through the term of the contract, such threshold shall equal 50 percent of the qualifying clinic's Medicaid patient base.

- 4) The Medicaid patient base shall be a number mutually agreed to by the Department and the qualifying clinic and established in the transitional payment contract that equals the number of Medicaid clients registered as patients of the qualifying clinic as of November 1996. If the qualifying clinic did not have Medicaid clients registered as patients as of November 1996, the mutually agreed to Medicaid patient base shall be the number of Medicaid clients registered as patients of the qualifying clinic as of the sixth month the qualifying clinic receives transitional payments under this Section.

5) Transitional payments shall equal:

- A) eight dollars per member per month for the first 12-month period of the clinic's effective date of a contract with the Department;
- B) six dollars per member per month for the second 12-month period of the clinic's effective date of a contract with the Department;
- C) two dollars per member per month for the third 12-month period of the clinic's effective date of a contract with the Department.

6) Total transitional payments under subsection (e) shall not exceed:

- A) \$2,625,000 through June 30, 1997;
- B) \$4,500,000 for each 12-month period thereafter that begins on July 1 and ends on June 30 of the following year.

7) In the event that payments exceed the limits described in subsection (e)(6) above, the Department will adjust future payments to clinics to recover any excess payment.

8) No clinic qualifying under subsection (e) shall receive transitional payments beyond the earlier of:

- A) three years from the effective date of a clinic's signed contract, or
- B) June 30, 2000.

(Source: Emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days)



## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Specialized Health Care Delivery Systems

2) Code Citation: 89 Ill. Adm. Code 146

3) Section Numbers  
146.125 Emergency Action:  
146.130 Amendment  
Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 90-588

5) Effective Date: July 1, 1998

6) If these Emergency Amendments are to expire before the end of the 150-day period, please specify the date on which it is to expire: Not Applicable

7) Date Filed in Agency's Principal Office: July 1, 1998

8) Reason for Emergency: These emergency amendments are being filed pursuant to the Governor's fiscal year 1999 budget plan and the enactment of the State's budget by the Legislature. Reimbursement procedures concerning Medicaid funded services provided by Ambulatory Surgical Treatment Centers must be revised in accordance with companion emergency amendments in the Department's rules governing hospital outpatient services at 89 Ill. Adm. Code 148.140(b)(1). These emergency amendments are a component of the outpatient reform measures mandated by the Legislature and are required to ensure access by Medical Assistance recipients to necessary outpatient services. Emergency rulemaking is specifically authorized for the implementation of these reimbursement changes for fiscal year 1999 by Section 5-45 of Public Act 90-588.

9) Complete Description of the Subjects and Issues Involved: These emergency amendments concerning Ambulatory Surgical Treatment Centers (ASTCs) are a component of the outpatient reform measures mandated by the Legislature and are necessary to revise the rules in accordance with companion emergency amendments in the Department's rules governing outpatient services at 89 Ill. Adm. Code 148.140(b)(1). The Hospital Ambulatory Reform (HAR) Program codes, which have served as the basis for ASTC reimbursement, are composed of four billing groups. Effective July 1, 1998, the number of outpatient billing groups will be increased from four to 12. The new billing groups, Ambulatory Procedure Listing (APL) codes, will therefore replace HAR codes for purposes of ASTC reimbursement. However, ASTC reimbursements will continue to be calculated at 75 percent of the applicable billing group.

The use of the APL codes will, in the aggregate, increase outpatient spending. For ASTC services, the Department anticipates an annual budgetary increase of approximately \$200,000.

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

10) Are there any other proposed amendments pending on this Part? No

11) Statement of Statewide Policy Objectives: These emergency amendments do not affect units of local government.

12) Information and questions regarding these Emergency Amendments shall be directed to:

Joanne Jones  
Bureau of Rules and Regulations  
Illinois Department of Public Aid  
201 South Grand Avenue East  
Third Floor  
Springfield, Illinois 62763  
(217) 524-0081

The full text of the Emergency Amendments begins on the next page:

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

## TITLE 89: SOCIAL SERVICES

## CHAPTER I: DEPARTMENT OF PUBLIC AID

## SUBCHAPTER d: MEDICAL PROGRAMS

## PART 146

## SPECIALIZED HEALTH CARE DELIVERY SYSTEMS

## SUBPART A: AMBULATORY SURGICAL TREATMENT CENTERS

## Section

146.100 General Description

146.105 Definitions

146.110 Participation Requirements

146.115 Records and Data Reporting Requirements

146.125 Covered Ambulatory Surgical Treatment Center Services

EMERGENCY

146.130 Reimbursement for Services

EMERGENCY

## SUBPART B: SUPPORTIVE LIVING FACILITIES

146.200 General Description

146.205 Definitions

146.210 Structural Requirements

146.215 SLF Participation Requirements

146.220 Resident Participation Requirements

146.225 Reimbursement for Medicaid Residents

146.230 Services

146.235 Staffing

146.240 Resident Contract

146.245 Assessment and Service Plan and Quarterly Evaluation

146.250 Resident Rights

146.255 Discharge Criteria

146.260 Grievance Procedure

146.265 Records Requirements

146.270 Quality Assurance Plan

146.275 Monitoring

146.280 Termination or Suspension of SLF Provider Agreement

146.285 Voluntary Surrender of Certification

**AUTHORITY:** Implementing Article III of the Illinois Health Finance Reform Act [20 ILCS 2215/Art. III] and implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

**SOURCE:** Old Part repealed at 14 Ill. Reg. 13800, effective August 15, 1990; New Part adopted at 20 Ill. Reg. 4419, effective February 29, 1996; emergency amendment at 21 Ill. Reg. 13875, effective October 1, 1997, for a maximum of

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

150 days; amended at 22 Ill. Reg. 4430, effective February 27, 1998; emergency amendment at 22 Ill. Reg. **13146**, effective July 1, 1998, for a maximum of 150 days.

## SUBPART A: AMBULATORY SURGICAL TREATMENT CENTERS

## Section 146.125 Covered Ambulatory Surgical Treatment Center Services

EMERGENCY

a) The Department of Public Aid will reimburse ambulatory surgical treatment centers (ASTCs) for facility services in accordance with covered Ambulatory Procedure Listing (APL) Groupings Hospital Ambulatory--Reform--(HAR)--Procedure--Codes--from--Group--I--and--Group--II--of the--Hospital--Ambulatory--Care--Listing, as defined in 89 Ill. Adm. Code 148.140(b)(1). The Department may exclude from coverage in an ASTC any procedure identified as only appropriate for coverage in a hospital setting. APL groups that may be reimbursed to an ASTC are defined in the Department's Hospital Handbook and notices to providers.

1) Group--I--procedures--are--high--level--technology--surgeries--that consume--many--facility--resources--and--are--costly--to--deliver.

2) Group--III--procedures--are--other--surgical--specialized--cardiac--and diagnostic--procedures.

3) The--Hospital--Ambulatory--Care--List--is--updated--periodically--As technology--changes--so--do--the--procedures--that--fall--into--the categories--in--addition--annual--changes--in--the--ICB-9-CM procedure--codes--and--their--meanings--necessitate--annual--changes--to the--Hospital--Ambulatory--Care--List.

b) Facility services furnished by an ASTC in connection with covered APL HAR codes Group--I--and--Group--III include, but are not limited to:

1) Nursing, technician and related services;

2) Use of the ASTC facilities;

3) Supplies (such as drugs, biologicals (for example e-g-, blood)), surgical dressings, splints, casts and appliances, and equipment directly related to the provision of surgical procedures;

4) Diagnostic or therapeutic services or items directly related to the provision of a surgical procedure;

5) Administrative, record keeping recordkeeping, and housekeeping items and services; and

6) Materials for anesthesia.

c) Facility services do not include items and services for which payment may be made under other provisions of this Section such as physicians' services, laboratory, x-ray or diagnostic procedures performed by independent facilities or practitioners on the day of surgery (other than those directly related to performance of the surgical procedure), prosthetic devices, ambulance services, leg, arm, back and neck braces, artificial limbs, and durable medical equipment for use in the patient's home. In addition, they do not include anesthesiologist

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

services.

(Source: Emergency amendment at 22 Ill. Reg. **13146**, effective July 1, 1998, for a maximum of 150 days)

**Section 146.130 Reimbursement for Services****EMERGENCY**

a) Reimbursement levels shall be at the lower of the ASTC's usual and customary charge to the public or the Department's Statewide maximum reimbursement screen.

b) With respect to APL Group--i procedures described in Section 148.140(b)(1) i46-i25fa+t+t, reimbursement, an all-inclusive rate for facility services, shall be calculated at 75 percent of the applicable group rate paid for that same procedure in a hospital outpatient setting Statewide-median-payment-for-Group-i-procedures-in-a-hospital outpatient-setting.

c) With-respect-to--the-Group-iii--procedures--described--in--Section i46-i25fa+t+t, --reimbursement--an--all-inclusive--rate--for--facility services--shall-be-at-75-percent-of-the-Group-iii-nonteaching-hospital rate--

c)d Laboratory, x-ray, or prescription services or professional physicians' services, in connection with a covered surgical procedure, must be billed by the providers rendering such services. If the ASTC provides the lab or x-ray service, then:

- 1) Separate billing is NOT allowed if provided on the day of surgery; or
- 2) Separate billing IS allowed if provided on other than the day of surgery.

d)e The providers described in subsection (c) of this Section tdy-above must meet all applicable license, enrollment and reimbursement conditions of the Department of Public Aid, Department of Public Health and the Department of Professional Regulation.

(Source: Emergency amendment at 22 Ill. Reg. **13146**, effective July 1, 1998, for a maximum of 150 days)

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: The Administration and Operation of the Teachers' Retirement System

2) Code Citation: 80 Ill. Adm. Code 1650

3) Section Numbers:  
     1650.356      Emergency Action:  
     1650.391      New Section  
     1650.392      New Section

4) Specific statutory citation upon which the rule is based and authorized:  
     1650.356      40 ILCS 5/16-129.1, 16-152.1, 16-154  
     1650.391      40 ILCS 5/16-129.1  
     1650.392      40 ILCS 5/16-127, 16-129.1, 16-151

5) Effective date of the rule: June 29, 1998

6) If this emergency rule is to expire before the end of the 150-day period (other than by means of adopting the rule through the general rulemaking process), please specify the date: This rule will expire at the end of the 150-day period.

7) Date filed in agency's principal office: June 25, 1998

8) The reason for the emergency: Public Act 90-582, in part, added a new Section 16-129.1 of the Pension Code [40 ILCS 5/16-129.1] to allow a member to upgrade the retirement benefits based upon his or her years of pre-July 1, 1998, creditable service to the new 2.2% retirement benefit formula established in Public Act 90-582. This Act became effective upon becoming law. To implement the law, a number of administrative issues must be resolved. These rules resolve those issues.

9) A Complete Description of the Subjects and Issues Involved: The amendments to Section 1650.356 modify that Section to allow members to utilize the payroll deduction program as a payment option to pay the upgrade charges required under Section 16-129.1 of the Pension Code [40 ILCS 5/16-129.1].

The addition of Section 1650.391 clarifies the statutory language of Section 16-129.1 of the Pension Code [40 ILCS 5/16-129.1] with respect to the process by which a member may upgrade the retirement benefits based upon his or her years of pre-July 1, 1998, creditable service to the new 2.2% retirement benefit formula established in Public Act 90-582. A member must apply in writing for the upgrade. The date on which the application is received locks in the calculation cost for a five-year period. The salaries used in the calculation are based upon the annual reports which the employer must file with the System on or before August 15 for the previous school year. This rule establishes August 15 as a pivotal date. The effective period for the application is the period between the



## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF EMERGENCY AMENDMENTS

date on which the application is received by the System and the end of a five-year period which commences on the August 15 after receipt of the application. The salaries used for those who apply between July 1 and August 15 shall be the most recent salaries on file with the System. All of the upgrade payments must be completed prior to the end of a five-year period commencing with the August 15 after the receipt of the application. The upgrade contribution is based upon a formula set forth in Section 16-129.1 of the Pension Code [40 ILCS 5/16-129.1]. The statutory phrase "failed to make the full contribution in a timely fashion" as the failure to make the full contribution during the effective period of the application or, at the election of the member, the member's termination of employment for any reason other than death or retirement.

The emergency rule proposes that, in order to provide a reasonable transition period, if an application is received by the System on or before September 15, 1998, the calculation of the contribution and the effective period shall be as of August 15, 1998. This one month extension is being proposed to allow the System's membership to be better informed of the various options provided by Public Act 90-582 without imposing a financial penalty upon the membership.

The addition of Section 1650.392 harmonizes the statutory language of Section 16-129.1 of the Pension Code [40 ILCS 5/16-129.1] with respect to the process by which a member may upgrade the retirement benefits based upon his or her years of pre-July 1, 1998, optional service which are, or are in the processing of being, credited to the member's record after an initial application is made under Section 1650.391 to upgrade less than twenty years of creditable service. The provisions of this Section are similar to the provisions of Section 1650.391 with some notable exceptions. This Section provides that the member may apply for an upgrade of the optional service concurrently with the purchase of the optional service. The calculation was altered to recognize the fact that the member had elected to upgrade some years of service previously under Section 1650.391 and may have previously elected to upgrade some years of service under this Section. This Section harmonizes the System's current practice of calculating the largest number of years of optional service with a member's failure to make the full contribution for the upgrade charge in a timely fashion. Under certain circumstances, a recalculation will occur rather than a refund if there is such a failure.

10) Are there any proposed amendments to this Part pending? Yes

| Section Numbers | Proposed Action | Illinois Register Citation |
|-----------------|-----------------|----------------------------|
| 1650.380        | Amended         | 22 Ill. Reg. 7314          |
| 1650.356        | New Section     | 22 Ill. Reg. 9259*         |

\*The System will not proceed with the rulemaking. The enclosed Section

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF EMERGENCY AMENDMENTS

1650.356 is changed to reflect changes made by Public Act 90-582.

11) Statement of Statewide Policy Objectives, if applicable: This rulemaking does not create or expand a State mandate.

12) Name, address and telephone number of the person to whom information and questions regarding this adopted rule shall be directed:

Carl Mowery, General Counsel  
Teachers' Retirement System  
2815 West Washington, P. O. Box 19253  
Springfield, Illinois 62794-9253  
(217) 753-0961

The full text of the Emergency Amendments begins on the next page:

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF EMERGENCY AMENDMENTS

## TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

## SUBTITLE D: RETIREMENT SYSTEMS

CHAPTER III: TEACHERS' RETIREMENT SYSTEM OF  
THE STATE OF ILLINOIS

## PART 1650

THE ADMINISTRATION AND OPERATION OF THE  
TEACHERS' RETIREMENT SYSTEM

## SUBPART A: REPORTS BY BOARD OF TRUSTEES

## Section

1650.10 Annual Financial Report (Repealed)

## SUBPART B: BASIC RECORDS AND ACCOUNTS

## Section

1650.110 Membership Records

1650.120 Claims Records (Repealed)

1650.130 Individual Accounts (Repealed)

1650.140 Ledger and Accounts Books (Repealed)

1650.150 Statistics (Repealed)

1650.160 Confidentiality of Records

1650.180 Filing and Payment Requirements

1650.181 Early Retirement Incentive Payment Requirements

1650.182 Waiver of Additional Amounts Due

1650.183 Definition of Employer's Normal Cost

## SUBPART C: FILING OF CLAIMS

## Section

1650.210 Claim Applications

1650.220 Reclassification of Disability Claim (Repealed)

1650.230 Medical Examinations and Investigations of Claims

1650.240 Refunds; Impermissible Refunds; Canceled Service; Repayment

1650.250 Death Benefits

1650.260 Evidence of Age

1650.270 Reversionary Annuity - Evidence of Dependency

1650.271 Evidence of Parentage

1650.272 Eligible Child Dependent By Reason of a Physical or Mental

Disability

1650.280 Evidence of Marriage

1650.290 Offsets

## SUBPART D: MEMBERSHIP AND SERVICE CREDITS

## Section

1650.310 Effective Date of Membership

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF EMERGENCY AMENDMENTS

1650.320

1650.325 Method of Calculating Service Credits

Benefit or Occupational Disability Benefit

1650.330 Duplicate Service Credit

1650.340 Service Credit for Leaves of Absence

1650.341 Service Credit for Involuntary Layoffs

1650.345 Service Credit for Periods Away From Teaching Due to Pregnancy

1650.346 Service Credit for Periods Away From Teaching Due to Adoption

1650.350 Service Credit for Unused Accumulated Sick Leave Upon Retirement

1650.355 Purchase of Optional Service - Required Minimum Payment

1650.356 Payroll Deduction Program

## EMERGENCY

1650.360

1650.370 Settlement Agreements and Judgments

1650.380 Calculation of Average Salary (Renumbered)

1650.390 Definition of Actuarial Equivalent

1650.391 Independent Contractors

1650.392 Optional 2.2 Upgrade of Earned and Credited Service

## EMERGENCY

1650.392

Application

2.2 Upgrade of Optional Service Not Credited at Initial Upgrade

## SUBPART E: CONTRIBUTION CREDITS AND PAYMENTS

## Section

1650.410

1650.420 Refunds for Duplicate or Noncreditable Service

1650.430 Interest on Deficiencies (Repealed)

1650.440 Installment Payments (Repealed)

1650.450 Small Deficiencies, Credits or Death Benefit Payments

1650.451 Definition of Salary

1650.460 Reporting of Conditional Payments

1650.470 Calculation of Average Salary

1650.480 Rollover Distributions

Rollovers to the System

## SUBPART F: RULES GOVERNING ANNUITANTS AND BENEFICIARIES

## Section

1650.505

1650.510 Beneficiary (Repealed)

1650.520 Re-entry Into Service

1650.530 Suspension of Benefits

1650.540 Power of Attorney

1650.550 Conservators/Guardians

1650.560 Presumption of Death

1650.570 Benefits Payable on Death

1650.575 Survivors' Benefits

1650.580 Full-time Student - Receipt of Survivors Benefits Until Age 22

1650.590 Evidence of Eligibility

Comptroller Offset

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF EMERGENCY AMENDMENTS

1650.595 Overpayments

## SUBPART G: ATTORNEY GENERALS' OPINION

Section  
1650.605 Policy of the Board Concerning Attorney Generals' Opinion (Repealed)

## SUBPART H: ADMINISTRATIVE REVIEW

Section  
1650.610 Staff Responsibility  
1650.620 Right of Appeal  
1650.630 Form of Written Request  
1650.640 Prehearing Procedure  
1650.650 Hearing Procedure  
1650.660 Rules of Evidence

## SUBPART I: AMENDMENTS TO BYLAWS AND RULES

Section  
1650.710 Amendments

## SUBPART J: RULES OF ORDER

Section  
1650.810 Parliamentary Procedure

## SUBPART K: FREEDOM OF INFORMATION ACT REQUESTS

Section  
1650.910 Summary and Purpose  
1650.920 Definitions  
1650.930 Submission of Requests  
1650.940 Form and Content of FOIA Requests  
1650.950 Appeal of a Denial  
1650.960 Executive Director's Response to Appeal  
1650.970 Response to FOIA Requests  
1650.980 Inspection of Records at System Office  
1650.990 Copies of Public Records  
1650.995 Materials Available Under Section 4 of FOIA

## SUBPART L: BOARD ELECTION PROCEDURES

Section  
1650.1000 Nomination of Candidates  
1650.1010 Petitions  
1650.1020 Eligible Voters  
1650.1030 Election Materials

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF EMERGENCY AMENDMENTS

1650.1040 Marking of Ballots  
1650.1050 Return of Ballots  
1650.1060 Observation of Ballot Counting  
1650.1070 Certification of Ballot Counting  
1650.1080 Challenges to Ballot Counting

## SUBPART M: RETIREMENT BENEFITS

Section  
1650.2900 Excess Benefit Arrangement

**AUTHORITY:** Implementing and authorized by Article 16 of the Illinois Pension Code [40 ILCS 5/Art. 16]; Freedom of Information Act [5 ILCS 140]; Internal Revenue Code (26 USC 1 et seq.); Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

**SOURCE:** Filed June 20, 1958; emergency rules adopted at 2 Ill. Reg. 49, p. 249, effective November 29, 1978, for a maximum of 150 days; adopted at 3 Ill. Reg. 9, p. 1, effective March 3, 1979; codified at 8 Ill. Reg. 16350; amended at 9 Ill. Reg. 20885, effective December 17, 1985; amended at 12 Ill. Reg. 16896, effective October 3, 1988; amended at 14 Ill. Reg. 18305, effective October 29, 1990; amended at 15 Ill. Reg. 16731, effective November 5, 1991; amended at 17 Ill. Reg. 1631, effective January 22, 1993; amended at 18 Ill. Reg. 6349, effective April 15, 1994; emergency amendment at 18 Ill. Reg. 8949, effective May 24, 1994, for a maximum of 150 days; emergency modified at 18 Ill. Reg. 12880; amended at 18 Ill. Reg. 15154, effective September 27, 1994; amended at 20 Ill. Reg. 3118, effective February 5, 1996; emergency amendment at 21 Ill. Reg. 483, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 2422, effective January 31, 1997; amended at 21 Ill. Reg. 4844, effective March 27, 1997; emergency amendment at 21 Ill. Reg. 17159, effective December 9, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 7243, effective April 9, 1998; emergency amendment at 22 Ill. Reg. 7314, effective April 9, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 9374, effective May 14, 1998, for a maximum of 150 days; emergency rule modified in response to JCAR Objection at 22 Ill. Reg. 11640; emergency amendment at 22 Ill. Reg. ~~13151~~, effective June 29, 1998, for a maximum of 150 days.

## SUBPART D: MEMBERSHIP AND SERVICE CREDITS

## Section 1650.356 Payroll Deduction Program

- a) Effective July 1, 1998, a member who is employed on a full-time basis (4 or more clock hours per day, 5 days per week) may have his or her employer pick up optional contributions that the member has elected to pay the System through the payroll deduction program, and the contributions so picked up shall be treated as employer contributions for the purposes of determining federal income tax treatment [40 ILCS



## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF EMERGENCY AMENDMENTS

- 5/16-152.1(d)].
- b) Prior to the member's election to have his or her employer pick up the member's optional contributions, the member shall first establish the member's eligibility to purchase optional service credit pursuant to Section 16-127 of the Pension Code [40 ILCS 5/16-127], to repay a refund pursuant to Section 16-151 of the Pension Code [40 ILCS 5/16-151], or to upgrade the benefit formula in accordance with Section 129.1 of the Pension Code [40 ILCS 5/16-129.1].
- c) After establishing an optional contribution balance and electing to have optional contributions picked up on a before-tax basis, the member shall contact the System prior to the anticipated enrollment date and request that an irrevocable payroll deduction authorization be prepared and sent to the member.
- d) To participate in the payroll deduction program, the member shall execute a binding, irrevocable payroll deduction authorization that is furnished to the member by the System [40 ILCS 5/16-152.1(d)].
- 1) In the agreement, the member shall confirm that he or she is employed by the employer on a full-time basis (4 or more clock hours per day, 5 days per week).
- 2) The amount of the optional contribution balance as of the enrollment date and the type(s) of optional service shall be indicated on the authorization form.
- 3) The amount to be deducted on a monthly basis shall be clearly indicated on the authorization form. The monthly deduction shall remain constant except for the final payment, which may be less than the stated amount. The minimum monthly deduction must equal the lesser of the amount owed or \$50. However, if the authorization is for an upgrade feature, the maximum term allowed for the payment of such type of service shall be 5 years.
- 4) The rate of interest shall equal the regular interest rate established in Section 16-112 of the Pension Code [40 ILCS 5/16-112] in effect on the enrollment date. However, no interest shall be charged to a member for that portion attributable to an upgrade contribution.
- 5) The enrollment date shall be determined as follows:
- A) If the deductions will occur on a periodic basis for more than one month, the enrollment date shall be the first day of the calendar quarter after the execution of the payroll deduction authorization by the member and on behalf of the employer.
- B) If the deductions will occur during only one calendar month, the enrollment date shall be the first day of the calendar month in which the deduction will be made after the execution of the payroll deduction authorization by the member and on behalf of the employer.
- 6) The execution and acceptance of the payroll deduction authorization must occur prior to the enrollment date.
- 7) The payroll deduction authorization shall be irrevocable upon the

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF EMERGENCY AMENDMENTS

- first day of the pay period in which the first deduction will be made. An irrevocable payroll deduction authorization may only be terminated in accordance with subsection (h) below.
- 8) A member, who has a valid, irrevocable payroll deduction authorization in effect, shall be prohibited from making after-tax contributions or authorizing rollovers for the purpose of reducing his or her optional contribution balance.
- 9) A member may have a separate agreement for each type of optional service.
- A) An agreement may cover more than one type of optional service.
- B) A member shall have only one agreement with an employer for each type of optional service, unless additional optional service is based upon employment or other qualifying event occurring after the enrollment period for the previous authorization for the same type of optional service.
- 10) The authorization form may not be altered in any way or manner. Altered forms are void.
- e) The member shall forward the executed payroll deduction authorization to the member's employer.
- f) A duly-authorized representative of the employer shall execute the payroll deduction authorization on behalf of the employer prior to its enrollment date.
- 1) Prior to acceptance, the duly-authorized representative of the employer shall determine that:
- A) the member is employed by the employer on a full-time basis (4 or more clock hours per day, five 5 days per week); and
- B) the irrevocable payroll deduction authorization does not contain any handwriting other than the signature of the member and the date upon which the member executed the authorization; and
- C) the date on which the authorization is presented to the employer is prior to the enrollment date stated in the authorization.
- 2) Upon accepting the payroll deduction authorization, the duly-authorized representative of the employer shall:
- A) retain the upper portion of the authorization for its records; and
- B) sign the lower portion of the authorization and remit it to the Teachers' Retirement System at the address shown thereon prior to the first remittance.
- 3) The member's employer shall pick up the contributions from the same source of funds that is used to pay earnings to the member. Prior to or on the 15th day of the month following the month in which the deduction is made, the employer shall:
- A) remit to the System the payroll deduction by:
- i) check, cashier's check, or money order, along with an approved TRS remittance advice form; or

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF EMERGENCY AMENDMENTS

- ii) by electronic fund transfer; and
- B) send the System a mechanically-produced paper report that includes:
- i) each participating member's name, social security number, and the amount remitted on behalf of each member; and
  - ii) the name and social security number of each member who was scheduled to have an amount remitted but who had a qualifying event that terminated the agreement or who had an event that suspended the agreement and the reason or reasons for such termination or suspension.
- 5) The employer shall withhold the amount stated in the irrevocable payroll deduction authorization until the balance for which the authorization was made is paid in full or until such time that a qualifying event occurs that terminates the authorization for a particular member. Prior to the month in which the last payment will be made, the System shall inform the employer and the member of the amount of the last payments as well as the month in which the last payment is to be made.
- 6) The employer shall not remit any periodic optional contributions on behalf of a member directly to the System without such contributions having been made through this payroll deduction program.
- 9) A payroll deduction authorization shall be suspended (rather than terminated) if the member is not receiving a salary from the employer with whom the member made the authorization agreement for a period of time not to exceed one year and is promised renewed employment at the end of the period or has the right of re-employment pursuant to Section 24-12 of the School Code [105 ILCS 5/24-12]. At the end of the suspension period:
- 1) if the member is not re-employed within one year after the beginning of the suspension period, the authorization shall be terminated in accordance with subsection (h) below; or
  - 2) if the member is re-employed, the employer shall deduct the amount stated in the agreement until the balance is paid in full or a qualifying event occurs that would terminate the authorization.
- h) A payroll deduction authorization terminates:
- 1) upon the payment in full of the balance (including interest) for which the authorization was made; or
  - 2) after the occurrence of a qualifying event.
    - A) The term "qualifying event" is defined as:
      - i) the death of the member; or
      - ii) the disability of the member; or
      - iii) the retirement of the member; or
      - iv) the termination of the member's employment status.
    - B) The phrase "disability of the member" is defined as the cessation of salary from the employer due to the inability

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF EMERGENCY AMENDMENTS

- of the member to perform the duties of his or her position for an expected period of one year or more.
- C) The phrase "termination of the member's employment status" is defined as:
- i) the change of the member's full-time employment status to a substitute status or a part-time status, but does not include the change from a full-time covered position to a full-time non-covered position with the same employer; or
  - ii) the resignation or other termination of employment with the employer; or
  - iii) a suspense period that is greater than one year.
- 3) Upon termination of a non-upgrade-related payroll deduction authorization prior to the balance being paid in full:
- A) the member may pay the remainder in full by an after-tax lump sum payment, a rollover, or by executing a new payroll deduction authorization form with another employer; or
  - B) if the member does not pay the remainder in full prior to retirement and:
    - i) if the payment was for optional service credit, the portion of the optional service credit paid shall be credited to the member's account, or
    - ii) if the payment was for a repayment of a refund, the amount contributed shall be refunded to the member.
- 4) Upon termination of an upgrade-related payroll deduction authorization prior to the balance being paid in full, the provisions of 80 Ill. Adm. Code 1650.391 and 1650.392 shall apply.
- i) For purposes of this Section:
    - 1) The term "employer" shall mean the State of Illinois and any employer that is required or allowed to participate in the retirement program administered by the System.
  - 2) The phrase "type of optional service" shall mean:
    - A) the following types of optional service credit described in Section 16-127 of the Pension Code [40 ILCS 5/16-127]: prior service as a teacher, out-of-system service, military service, General Assembly service, leaves of absences (including pre-1983 pregnancy and adoption leaves), substitute teaching, and part-time teaching; and
    - B) the repayment of a refund pursuant to Section 16-151 of the Pension Code [40 ILCS 5/16-151]; and
    - C) the upgrade of established service pursuant to Section 16-129.1 of the Pension Code [40 ILCS 5/16-129.1]; and
    - D) the upgrade of the following types of optional service credit described in Section 16-127 of the Pension Code [40 ILCS 5/16-127]: prior service as a teacher, out-of-system service, military service, General Assembly service, leaves



## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF EMERGENCY AMENDMENTS

of absences (including pre-1983 pregnancy and adoption leaves), substitute teaching, and part-time teaching; and

E) the upgrade of the repayment of a refund pursuant to Sections 16-129.1 and 16-151 of the Pension Code [40 ILCS 5/16-129.1, 16-151].

(Source: Added by emergency rulemaking at 22 Ill. Reg. 1015, effective June 29, 1998, for a maximum of 150 days)

**1650.391 Optional 2.2 Upgrade of Earned and Credited Service**

## a) Applying to upgrade

1) Effective July 1, 1998, a member may apply to upgrade the graduated rate applicable to all of the member's years of service earned and credited before July 1, 1998, to the 2.2% flat rate described in subsection (a)(B)(1) of Section 16-133 of the Pension Code [40 ILCS 5/16-133] by making the optional contribution specified in subsection (b).

2) A member may not elect to qualify for the upgraded rate for only a portion of his or her creditable service earned before July 1, 1998 [40 ILCS 5/16-129.1(a)].

3) The member shall make application by completing a written upgrade application and sending it to the System.

4) The effective period of the application shall begin as of the date on which the application is received by the System and shall end upon the expiration of a 60-month period commencing on the August 15 following the receipt of the application by the System or payment in full, whichever is first. However, in order to provide a reasonable transition period, if the member applies for the upgrade on or before September 15, 1998, the aforementioned 60-month period shall commence on August 15, 1998, and the optional contribution necessary for upgrade shall be calculated as of August 15, 1998.

5) The application may only be terminated upon the member's death, at the end of the effective period, or upon the member's failure to make the full contribution in a timely fashion.

## b) Determining the optional contribution necessary for upgrade.

1) The optional contribution necessary for the upgrade shall be an amount equal to 1.0% of the member's highest salary rate in the 4 consecutive school years immediately prior to but not including the school year in which the application occurs, multiplied by the positive number of years of creditable service earned by the member before July 1, 1998, or 20, whichever is less. This contribution shall be reduced by 1.0% of that salary rate for every 3 full years of creditable service earned by the member after June 30, 1998. The contribution shall not in any event exceed 20% of that salary rate [40 ILCS 5/16-129.1(b)].

A) The "member's highest salary rate in the 4 consecutive

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF EMERGENCY AMENDMENTS

school years immediately prior to but not including the school year in which the application occurs" shall be based upon the 4 most recent employer's annual reports, as amended, required to be filed in accordance with Section 16-155 of the Pension Code [40 ILCS 5/16-155].

B) When determining the optional contribution necessary for the upgrade, that part of a member's salary with the same employer that exceeds the annual full-time salary rate for the preceding year by more than 20% shall be excluded.

C) For a member who is not currently employed by a covered employer, the highest salary rate of the member in the last 4 school years in which service was rendered shall be used for the calculation.

D) If a member has less than one year of creditable service in any of the 4 consecutive school years immediately prior to but not including the school year in which the application occurs and was a part-time non-contractual teacher or a substitute teacher in such year, the annualized salary rate for the school year shall be determined by dividing the creditable service fraction into the salary paid to the member during that school year.

E) The service credit given to a member at retirement pursuant to Section 16-127(b)(6) of the Pension Code [40 ILCS 5/16-127(b)(6)] shall be disregarded for the purpose of the calculation of the optional contribution necessary for the upgrade feature.

F) For purposes of this Section, optional creditable service established by a member shall be deemed to have been earned at the time of employment or other qualifying event upon which the service is based, rather than at the time the credit was established in this System [40 ILCS 5/16-129.1(d)].

2) The contribution calculated in accordance with this subsection (b) shall be paid in full by one or more of the following methods:

A) a single lump sum to be paid prior to the end of the effective period of the application or prior to retirement, whichever is earlier, through an after-tax contribution, through the payroll deduction program, or through a rollover [see 80 Ill. Adm. Code 1650.480]; or

B) a periodic payment in substantially equal installments over a period of time not to exceed 60 months, as a deduction pursuant to an irrevocable payroll deduction authorization described in 80 Ill. Adm. Code 1650.356, the last deduction for which shall be prior to the end of the effective period of the application or prior to retirement, whichever is earlier; or

C) if the member becomes an annuitant before June 30, 2003, a



## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF EMERGENCY AMENDMENTS

periodic payment in substantially equal monthly installments over a 24-month period, by a deduction from the annuitant's monthly benefit commencing at retirement. The last deduction must be prior to the end of the effective period of the application.

## 3) If a combination of methods is chosen by the member:

- A) the total period in which the member's payments are made shall not exceed the effective period of the application; and
- B) the lump sum payment may not be made by the member during the effective period of a payroll deduction authorization.

## c) Failing to make contribution.

## 1) A member has failed to make the full contribution in a timely fashion:

- A) if the full contribution is not paid within the effective period of the application; or
- B) upon termination of employment as a teacher for any cause other than death or retirement, if the member requests in writing that the application be terminated at least 4 months after ceasing to teach.

## 2) If the member has failed to make the full contribution in a timely fashion, the application shall be terminated and shall be no longer in effect.

## 3) If the member has failed to make the full contribution in a timely fashion, the payments made under this Section shall be refunded to the member, without interest [40 ILCS 5/16-129.1]. However, if the member is able to reapply, and does reapply, for the 2.2 upgrade feature prior to the refund being made, the amount of the refund shall be used as a partial lump sum contribution towards the cost of the 2.2 upgrade feature.

## 4) If the member dies before making the full contribution, the payments under this Section, together with regular interest thereon, shall be refunded to the member's designated beneficiary for benefits under Section 16-138 of the Pension Code [40 ILCS 5/16-129.1].

## d) A member shall not be able to reapply for the 2.2 upgrade feature during such time that an application is in effect.

## e) The amount due under this Section shall be recalculated at retirement if 3 or more years of post-June 30, 1998, service has been credited to the member's record subsequent to the member's upgrade application.

(Source: Added by emergency rulemaking at 22 Ill. Reg. effective June 29, 1998, for a maximum of 150 days)

## 13151

**1650.392 2.2 Upgrade of Optional Service Not Credited at Initial Upgrade Application**

- a) This Section shall apply only to a member who has elected to upgrade the graduated rate applicable to all of the member's years of service

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF EMERGENCY AMENDMENTS

earned and credited before July 1, 1998, pursuant to Section 16-129.1 of the Pension Code [40 ILCS 5/16-129.1] and 80 Ill. Adm. Code 1650.391 and who has less than 20 years of service earned and credited before July 1, 1998.

- 1) The member shall make application by completing a written upgrade application and sending it to the System.
- 2) The application for the upgrade may occur at any time after the optional contribution balance has been established for the underlying optional service.
- 3) The effective period of the application shall begin as of the date on which the application is received by the System and shall end upon the expiration of a 60-month period commencing on the August 15 following the receipt of the application by the System or payment in full, whichever is first. However, in order to provide a reasonable transition period, if the member applies for the upgrade on or before September 15, 1998, the aforementioned 60-month period shall commence on August 15, 1998, and the optional contribution necessary for upgrade shall be calculated as of August 15, 1998.
- 4) The application may only be terminated upon the member's death, at the end of the effective period, or upon the member's failure to make the full contribution in a timely fashion.
  - b) A member subject to this Section shall be required to pay an upgrade charge for any optional service credited to the member's service on or after July 1, 1998, if the time of employment or other qualifying event upon which the service is based is prior to July 1, 1998.
    - 1) The upgrade charge shall only apply to the number of years of optional service being credited, which is equal to the lesser of:
      - A) the number of years being upgraded; or
      - B) the remainder of the following formula: 20 minus the number of years of creditable service earned and credited before July 1, 1998, which are being or were previously upgraded pursuant to 80 Ill. Adm. Code 1650.391 or pursuant to this Section minus one year for every 3 full years of creditable service earned and credited after June 30, 1998, which were not used in previous calculations under this subsection (b).
  - 2) The optional contribution necessary for the upgrade under this Section shall be an amount equal to 1.0% of the member's highest salary rate in the 4 consecutive school years immediately prior to but not including the school year in which the application occurs, multiplied by the number of years of service determined in accordance with subsection (b)(1).
  - A) The "member's highest salary rate in the 4 consecutive school years immediately prior to but not including the school year in which the application occurs" shall be based upon the 4 most recent employer's annual reports, as amended, required to be filed in accordance with Section 16-155 of the Pension Code [40 ILCS 5/16-155].

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF EMERGENCY AMENDMENTS

- B) When determining the optional contribution necessary for the upgrade, that part of a member's salary with the same employer that exceeds the annual full-time salary rate for the preceding year by more than 20% shall be excluded.
- C) For a member who is not currently employed by a covered employer, the highest salary rate of the member in the last 4 school years in which service was rendered shall be used for the calculation.
- D) If a member has less than one year of creditable service in any of the 4 consecutive school years immediately prior to but not including the school year in which the application occurs and was a part-time non-contractual teacher or a substitute teacher in such year, the annualized salary rate for the school year shall be determined by dividing the creditable service fraction into the salary paid to the member during that school year.
- E) The service credit given to a member at retirement pursuant to Section 16-127(b)(6) of the Pension Code [40 ILCS 5/16-127(b)(6)] shall be disregarded for the purpose of the calculation of the optional contribution necessary for the upgrade feature.
- F) For purposes of this Section, optional creditable service established by a member shall be deemed to have been earned at the time of employment or other qualifying event upon which the service is based, rather than at the time the credit was established in this System [40 ILCS 5/16-129.1(d)].
- 3) The contribution calculated in accordance with this subsection (b) shall be paid in full by one or more of the following methods:
- A) a single lump sum to be paid prior to the end of the effective period of the application or prior to retirement, whichever is earlier, through an after-tax contribution, through the payroll deduction program, or through a rollover (see 80 Ill. Adm. Code 1650.480); or
- B) a periodic payment in substantially equal installments over a period of time not to exceed 60 months, as a deduction pursuant to an irrevocable payroll deduction authorization described in 80 Ill. Adm. Code 1650.356, the last deduction for which shall be prior to the end of the effective period of the application or prior to retirement, whichever is earlier; or
- C) if the member becomes an annuitant before June 30, 2003, a periodic payment in substantially equal monthly installments over a 24-month period, by a deduction from the annuitant's monthly benefit commencing at retirement. The last deduction must be prior to the end of the effective period of the application.

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF EMERGENCY AMENDMENTS

- 4) If a combination of methods is chosen by the member:
- A) the total period in which the member's payments are made shall not exceed the effective period of the application; and
- B) the lump sum payment may not be made by the member during the effective period of a payroll deduction authorization.
- C) Failing to make contribution.
- 1) A member has failed to make the full contribution in a timely fashion:
- A) if the full contribution is not paid within the effective period; or
- B) upon termination of employment as a teacher for any cause other than death or retirement, if the member requests in writing that the application be terminated at least 4 months after ceasing to teach.
- 2) If the member has failed to make the full contribution in a timely fashion, the application shall be terminated and shall be no longer in effect.
- 3) If the member fails to make the full contribution within the appropriate time period described in subsection (C)(1), and:
- A) if the payment is for the repayment of a refund, the amount contributed for both the refund and upgrade shall be refunded to the member, without interest; or
- B) if the payment is for optional service other than a refund, and:
- i) if the member has made the full upgrade contribution for the years of service earned and credited prior to July 1, 1998, pursuant to 80 Ill. Adm. Code 1650.391, the portion of the upgraded optional service credit determined by the System to have been paid shall be credited to the member's account; or
- ii) if the member fails to make the full contribution for the years of service earned and credited prior to July 1, 1998, pursuant to 80 Ill. Adm. Code 1650.391, the payments made for the upgrade shall be refunded to the member, without interest.
- C) However, if the reason for the failure is the death of the member:
- i) if the member has made the full upgrade contribution for the years of service earned and credited prior to July 1, 1998, pursuant to 80 Ill. Adm. Code 1650.391, the portion of the upgraded optional service credit determined by the System to have been paid shall be credited to the member's account; or
- ii) if the member fails to make the full contribution for the years of service earned and credited prior to July 1, 1998, pursuant to 80 Ill. Adm. Code 1650.391 or if the payment is for a refund, the payments made for the

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF EMERGENCY AMENDMENTS

upgrade, together with regular interest thereon, shall be refunded to the member's designated beneficiary for benefits under Section 16-138 of the Pension Code [40 ILCS 5/16-129.1].

D) The date of application for the purpose of determining the amount of optional service credit paid shall be deemed to be:

- i) if pursuant to subsection (c)(3)(B)(i) above, the date upon which the failure to contribute in a timely fashion occurred; or
- ii) if pursuant to subsection (c)(3)(C)(i) above: the date of the application which terminated upon the member's death if the member had applied for the upgrade prior to his or her death; or the date of death if the member had not previously applied for the upgrade.

d) A member shall not be able to reapply for the 2.2 upgrade feature during such time that an application is in effect for the same type of optional service.

e) The amount due under this Section shall be recalculated at retirement if 3 or more years of post-June 30, 1998, service has been credited to the member's record subsequent to the member's upgrade.

(Source: Added by emergency rulemaking at 22 Ill. Reg. **13151**, effective June 29, 1998, for a maximum of 150 days)

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

1) Heading of the Part: Procurement

2) Code Citation: 44 Ill. Adm. Code 1400

3) Section Numbers:

| <u>Section Numbers:</u> | <u>Proposed Action:</u> |
|-------------------------|-------------------------|
| 1400.505                | New                     |
| 1400.510                | New                     |
| 1400.515                | New                     |
| 1400.520                | New                     |
| 1400.525                | New                     |
| 1400.530                | New                     |
| 1400.1005               | New                     |
| 1400.1010               | New                     |
| 1400.1015               | New                     |
| 1400.1505               | New                     |
| 1400.1510               | New                     |
| 1400.1515               | New                     |
| 1400.2005               | New                     |
| 1400.2010               | New                     |
| 1400.2015               | New                     |
| 1400.2020               | New                     |
| 1400.2025               | New                     |
| 1400.2030               | New                     |
| 1400.2035               | New                     |
| 1400.2040               | New                     |
| 1400.2045               | New                     |
| 1400.2505               | New                     |
| 1400.2510               | New                     |
| 1400.2515               | New                     |
| 1400.2520               | New                     |
| 1400.3005               | New                     |
| 1400.3010               | New                     |
| 1400.3505               | New                     |
| 1400.3510               | New                     |
| 1400.3515               | New                     |
| 1400.3520               | New                     |
| 1400.3525               | New                     |
| 1400.4005               | New                     |
| 1400.4010               | New                     |
| 1400.4015               | New                     |
| 1400.4020               | New                     |
| 1400.4505               | New                     |
| 1400.4510               | New                     |
| 1400.4515               | New                     |
| 1400.4520               | New                     |
| 1400.4525               | New                     |
| 1400.4530               | New                     |
| 1400.4535               | New                     |



## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

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4) Statutory Authority: Section 1-30 of the Illinois Procurement Code [30 ILCS 500/1-30]

5) Effective Date of Rule: July 1, 1998

6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which they expire: The emergency rule will expire when it is replaced with a permanent rule.

7) Date Filed in Agency's Principal Office: June 23, 1998

8) Reason for Emergency: The Illinois Procurement Code requires that all Constitutional Officers have rules promulgated by July 1, 1998.

9) A Complete Description of the Subjects and Issues Involved: This rule sets forth the manner in which the Treasurer's office will procure goods and services.

10) Are there any proposed amendments to this Part Pending? No

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

11) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

12) Information and questions regarding these rules shall be directed to:

Name: Martin O. Noven  
Address: Legal Counsel  
Office of the Illinois State Treasurer  
Law Division  
160 North LaSalle Street, Suite S-905  
Chicago, Illinois 60601  
Telephone: (312) 814-8950

The full text of the emergency rules begins on the next page:

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENTS, AND PROPERTY  
 SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES  
 CHAPTER XXI: TREASURER

PART 1400  
 PROCUREMENT

## SUBPART A: GENERAL

## Section

1400.505

EMERGENCY

1400.510

EMERGENCY

1400.515

EMERGENCY

1400.520

EMERGENCY

1400.525

EMERGENCY

1400.530

EMERGENCY

## SUBPART B: PROCUREMENT AUTHORITY

## Section

1400.1005

EMERGENCY

1400.1010

EMERGENCY

1400.1015

EMERGENCY

## SUBPART C: PUBLICATION, SOLICITATION AND DOCUMENTATION

## Section

1400.1505

EMERGENCY

1400.1510

EMERGENCY

1400.1515

EMERGENCY

## SUBPART D: PROCUREMENT METHODS

## Section

1400.2005

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

EMERGENCY  
 1400.2010

Multi-Step Sealed Bidding

EMERGENCY

1400.2015

EMERGENCY

1400.2020

EMERGENCY

1400.2025

EMERGENCY

1400.2030

EMERGENCY

1400.2035

EMERGENCY

1400.2040

EMERGENCY

1400.2045

EMERGENCY

## SUBPART E: GENERAL PROCUREMENT GUIDELINES

## Section

1400.2505

EMERGENCY

1400.2510

EMERGENCY

1400.2515

EMERGENCY

1400.2520

EMERGENCY

## SUBPART F: SPECIFICATIONS AND SECURITY REQUIREMENTS

## Section

1400.3005

EMERGENCY

1400.3010

EMERGENCY

## SUBPART G: CONTRACTS

## Section

1400.3505

EMERGENCY

1400.3510

EMERGENCY

1400.3515

EMERGENCY

1400.3520

EMERGENCY

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

EMERGENCY  
1400.3525  
EMERGENCY

Prevailing Wage Requirements

## SUBPART H: DISPUTES, PROTESTS AND CONTROVERSIES

Section  
1400.4005  
EMERGENCY  
1400.4010  
EMERGENCY  
1400.4015  
EMERGENCY  
1400.4020  
EMERGENCY

Disputes and Protests Regarding Solicitations and Awards

Contract Controversies

Remedies

Suspension

## SUBPART I: PREFERENCES

Section  
1400.4505  
EMERGENCY  
1400.4510  
EMERGENCY  
1400.4515  
EMERGENCY  
1400.4520  
EMERGENCY  
1400.4525  
EMERGENCY  
1400.4530  
EMERGENCY  
1400.4535  
EMERGENCY  
1400.4540  
EMERGENCY  
1400.4545  
EMERGENCY  
1400.4550  
EMERGENCY  
1400.4555  
EMERGENCY  
1400.4560  
EMERGENCY  
1400.4565  
EMERGENCY

Procurement Preferences

Resident Vendor Preference

Soybean Oil-based Ink

Recycled Materials

Recycled Paper

Correctional Industries

Sheltered Workshops for the Disabled

Gas Mileage

Illinois Agricultural Products

Corn-based Plastics

Vehicles Powered by Agricultural Commodity-based Fuel

Small Businesses

Preferences for Veterans, Minorities, Females, and Persons with Disabilities

## SUBPART J: ETHICS

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

Section  
1400.5005  
EMERGENCY  
1400.5010  
EMERGENCY  
1400.5015  
EMERGENCY  
1400.5020  
EMERGENCY  
1400.5025  
EMERGENCY  
1400.5030  
EMERGENCY  
1400.5035  
EMERGENCY  
1401.5040  
EMERGENCY  
1400.5045  
EMERGENCY  
1400.5050  
EMERGENCY  
1400.5055  
EMERGENCY  
1400.5060  
EMERGENCY  
1400.5065  
EMERGENCY

Purpose

Bribery

Felons

Conflicts of Interest

Negotiations for Future Employment

Revolving Door

Disclosure of Financial Interests and Potential Conflicts of Interest  
Reporting Anticompetitive Practices

Confidentiality

Insider Information

Additional Provisions

Other Violations

Supply Inventory

## SUBPART K: CONCESSIONS

Section  
1400.5505  
EMERGENCY

Concessions

## SUBPART L: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section  
1400.6005  
EMERGENCY  
1400.6010  
EMERGENCY  
1400.6015  
EMERGENCY  
1400.6020  
EMERGENCY  
1400.6025  
EMERGENCY  
1400.6030  
EMERGENCY

Severability

Government Furnished Property

Inspections

No Waiver of Sovereign Immunity

Postage Stamps

Printing



## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

EMERGENCY  
1400.6035 Annual Reports  
EMERGENCY

AUTHORITY: Implementing and authorized by Section 1-30 of the Illinois Procurement Code [30 ILCS 500/1-30].

SOURCE: Adopted by emergency rule at 22 Ill. Reg. **13169**, effective **JUL 01 1998**.

SUBPART A: GENERAL

Section 1400.505 Title  
EMERGENCY

This Part may be cited as the Office of the Treasurer Procurement Rules.

Section 1400.510 Policy  
EMERGENCY

All procurements by the Treasurer's office will be accomplished in the most competitive, expeditious, economical and commercially reasonable manner that is in accordance with law, this Part and other applicable rules.

Section 1400.515 Applicability  
EMERGENCY

a) This Part applies to all procurements by the Treasurer's office with a Solicitation Date of July 1, 1998 or later with the exception of the following:

- 1) contracts between the Treasurer's office and any federal, State, or local governmental body;
  - 2) agreements for the deposit of State moneys in interest bearing accounts or the investment of State moneys under the Deposit of State Moneys Act [15 ILCS 520] or the Public Funds Investment Act [30 ILCS 235];
  - 3) hiring employees, including contractual employees but not independent contractors, of the Treasurer's office;
  - 4) collective bargaining agreements;
  - 5) contracts approved by the Chief Legal Counsel as necessary to prepare for anticipated litigation, enforcement actions, or investigations.
- b) The terms and conditions and the rights and obligations under contracts resulting from procurements with a Solicitation Date that is earlier than the effective date of this Part will not be impaired.

Section 1400.520 Definition of Terms  
EMERGENCY

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

Each term listed in this Section has the meaning below unless its use clearly requires a different meaning. Terms may be defined in particular Sections for use in those Sections.

"Bid" - A response to an Invitation for Bids.

"Bidder" - The person or entity submitting a bid.

"Brand Name or Equal Specification" - A specification that uses one or more manufacturer's names or catalogue numbers to describe the standard of quality, performance, and other characteristics needed to meet Treasurer's office requirements, and that allows the submission of equivalent products.

"Brand Name Specification" - A specification limited to one or more items by manufacturer's names or catalogue numbers.

"Chief Legal Counsel" - An attorney for the Treasurer's office who reports directly to the Chief of Staff and is primarily responsible for the legal functioning of the Treasurer's office.

"Chief of Staff" - The Chief of Staff for the Treasurer's office.

"Chief Procurement Officer" - The employee of the Treasurer's office who is appointed by the Treasurer to be primarily responsible for the procurement of all goods and services by the Treasurer's office.

"Contract" - Any agreement or lease that requires the payment of State funds by the Treasurer's office in exchange for goods or services.

"Day" - Calendar day as opposed to business day. In computing any period of time, the day of the event from which the designated period of time begins to run is not included, but the last day of the period is included unless it is a Saturday, Sunday, or a State holiday, in which event the period runs to the end of the next business day.

"Invitation for Bids" - A document prepared and distributed by the Treasurer's office soliciting bids for the provision of goods or services to the Treasurer's office.

"Offer" - A bid, proposal, or response solicited by the Treasurer's office.

"Offeror" - The person or entity submitting a bid, proposal or response solicited by the Treasurer's office.

"Procurement Review Board" - A board composed of the Chief of Staff, the Chief Legal Counsel, and the Inspector General for the Treasurer's

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

office.

"Professional and Artistic Services" - Those services provided under contract to the Treasurer's office by a person or business, acting as an independent contractor, qualified by education, experience, and technical ability.

"Proposal" - A response to a Request for Proposals.

"Proposer" - The person or entity submitting a proposal.

"Purchasing Officer" - One or more employees of the Treasurer's office that serve at the direction of the Chief Procurement Officer and are responsible for coordinating the procurement activity of the Treasurer's office.

"Request for Information" - A document prepared and distributed by the Treasurer's office soliciting lease information for real property.

"Request for Proposals" - A document prepared and distributed by the Treasurer's office soliciting proposals for the provision of goods or services to the Treasurer's office.

"Respondent" - The person or entity submitting a response to a Request for Information from the Treasurer's office.

"Response" - A response to a Request for Information.

"Responsible Bidder, Proposer or Respondent" - A person or entity that is capable in all respects of performing fully the contract requirements and has the integrity and reliability that will assure good faith performance.

"Responsive Bidder" - A person or entity that has submitted a bid conforming in all material respects to an Invitation for Bids or Request for Proposal.

"Small Business Specialist" - An employee of the Treasurer's office who is responsible for assisting small businesses in submitting offers to the Treasurer's office for the provision of goods and services.

"Solicitation" - An Invitation for Bids, Request for Proposals or Request for Information.

"Solicitation Date" - The date that bids or proposals are solicited for the provision of goods or services to the Treasurer's office by communicating the solicitation orally, depositing the solicitation in the U.S. Mail or posting the solicitation electronically, whichever

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

occurs first.

"Specification" - Any description of the physical, functional or performance characteristics or of the nature of a supply, a service, or construction items. A specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply, a service, or construction item for delivery.

"Treasurer's Web Site" - The World Wide Web site of the Office of the Illinois State Treasurer at [www.state.il.us/treas](http://www.state.il.us/treas).

**Section 1400.525 Property Rights  
EMERGENCY**

Receipt of a solicitation or submission of any bid, proposal or response to a solicitation confers no right to receive an award or contract, nor does it obligate the State in any manner.

**Section 1400.530 Department of Central Management Services  
EMERGENCY**

The Treasurer's office may, without soliciting independent bids, proposals, or responses, procure goods and services from vendors selected by the Department of Central Management Services (CMS) in accordance with a competitive selection process established by CMS under the Illinois Procurement Code [30 ILCS 500].

**SUBPART B: PROCUREMENT AUTHORITY****Section 1400.1005 Chief Procurement Officer  
EMERGENCY**

The Chief Procurement Officer shall insure that all procurements of the Treasurer's office are in accordance with this Part and in the best interest of the State. The Chief Procurement Officer is responsible for the activities of the Purchasing Officers and the Small Business Specialist who serve under his or her direction and supervision.

**Section 1400.1010 Purchasing Officer  
EMERGENCY**

- a) The Chief Procurement Officer, subject to the approval of the Treasurer, may appoint one or more employees under his or her direction and supervision to serve as Purchasing Officers.
- b) Before making an appointment, the Chief Procurement Officer shall, among other factors, consider each individual's character and fitness and understanding of the procurement process.

**Section 1400.1015 Small Business Specialist**

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

**EMERGENCY**

- a) The Chief Procurement Officer, subject to the approval of the Treasurer, may designate an employee of the Treasurer's office with experience negotiating contracts to serve as the Small Business Specialist.
- b) Before making the designation, the Chief Procurement Officer shall, among other factors, consider the individual's demeanor, organizational skills, knowledge of the Treasurer's office, and awareness of the issues confronting small businesses.

## SUBPART C: PUBLICATION, SOLICITATION AND DOCUMENTATION

**Section 1400.1505 Publication****EMERGENCY**

- a) Electronic Publication  
Every solicitation for bids, proposals or responses required under this Part must be published on the Treasurer's Web Site at least 14 calendar days before the date set in the solicitation for the opening of the bids, proposals or responses. Every notice of intention to enter into a sole source contract must be published on the Treasurer's Web Site at least 14 calendar days before the award of the contract. Notices of the exercise of an option to renew a lease must be published on the Treasurer's Web Site at least 60 days prior to the exercise of the option. All other documents required to be published under this Part must be published on the Treasurer's Web Site as soon as practicable and no later than 30 days from the date on which the document was produced. There is no fee assessed for access to the page of the Treasurer's Web Site containing procurement information.
- b) Paper Publication  
All documents published on the Treasurer's Web Site must be published in a paper format and made available upon request as of the date that it is published electronically. The Treasurer's office may charge a minimal fee that does not exceed the costs of postage and copying. The paper publication will be available for inspection free of charge at locations in Springfield and Chicago.
- c) Content of Publications  
  - 1) Solicitations. Every solicitation must include the following:
    - A) the date of the solicitation;
    - B) the specifications;
    - C) a procurement reference number if used;
    - D) the date, time, and location of any bidders' conferences;
    - E) the date, time, and location for making submissions;
    - F) method of source selection;
    - G) name of the Chief Procurement Officer and the Treasurer; and
    - H) instructions on how to obtain additional information.
  - 2) Notices of Contract Awarded. Every notice of contract awarded

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

must contain the following information:

- A) the name of the vendor selected for the award;
  - B) a brief description of what the vendor will do or provide;
  - C) the contract price;
  - D) the number of unsuccessful vendors;
  - E) the date the solicitation was first published;
  - F) the date, time and location for making submissions that led to the contract award;
  - G) name of the Chief Procurement Officer and the Treasurer; and
  - H) instructions on how to obtain additional information.
- 3) Notices of Cancellation or Rejection. The notices of cancellation of a solicitation or rejection of offers must:
- A) identify the solicitation;
  - B) briefly explain the reason for the cancellation or rejection; and
  - C) where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurement of similar goods or services.
- 4) Other Publications. All other publications required by this Part must contain any and all information that is required by this Part.

**Section 1400.1510 Solicitation****EMERGENCY**

In addition to publishing solicitation notices electronically and in a paper format, the Treasurer's office may directly contact prospective vendors. Direct solicitation may be oral or in writing, but care must be taken to ensure that all vendors receive the same information. At least three vendors should be contacted whenever possible.

**Section 1400.1515 Documentation****EMERGENCY**

- a) Minutes  
Minutes of all meetings of the Procurement Review Board and bidders' conferences will be created and made available for inspection and copying.
- b) Procurement File  
All official procurement records, notices, contracts, written determinations, minutes, forms, and any other documents required under this Part must be made part of the procurement file maintained by the Chief Procurement Officer. The procurement file must be open to inspection and copying under conditions established by the Chief Procurement Officer.
- c) Contract Filing  
Filing of contracts with the Office of the Comptroller must be done in accordance with the rules promulgated by the Comptroller's office.



## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

## SUBPART D: PROCUREMENT METHODS

Section 1400.2005 Competitive Sealed Bidding  
EMERGENCY

- a) Application
 

Competitive sealed bidding is the required method of source selection except as allowed by this Part. The provisions of this Section apply to every procurement required to be conducted by competitive sealed bidding.
- b) The Invitation for Bids
  - 1) Use. The Invitation for Bids is used to initiate a competitive sealed bid procurement.
  - 2) Content. The Invitation for Bids must include, at a minimum, the following:
    - A) instructions and information to bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the address of the office to which bids are to be delivered, the maximum time for bid acceptance by the Treasurer's office, and any other special information;
    - B) the specification, evaluation factors, delivery or performance schedule, and any inspection and acceptance requirements as are not included in the specification; and
    - C) the contract terms and conditions, including warranty, collateralization, bonding or other security requirements, as applicable.
  - 3) Incorporation by Reference. The Invitation for Bids may incorporate documents by reference if the Invitation for Bids specifies where the documents can be obtained.
  - 4) Publication and Documentation of the Invitation for Bids. The Invitation for Bids must be published as provided in Section 1400.1505 and made a part of the procurement file.
- c) Optional Bid Requirements
  - 1) Bid Form. The Invitation for Bids may provide a form which includes a space in which the bid price may be inserted and which the bidder must sign and submit along with all other necessary submissions.
  - 2) Bid Samples and Descriptive Literature.
    - A) Bid samples or descriptive literature may be required when it is necessary to evaluate required characteristics of the items bid.
    - B) Unsolicited bid samples or descriptive literature submitted at the bidder's risk may not be examined or tested, will not be deemed to vary any of the provisions of the Invitation for Bids, and may not be utilized by the vendor to contest a decision or understanding with the Treasurer's office.
- d) Prequalification
  - 1) The Chief Procurement Officer may require that vendors be

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

prequalified as a condition of being placed on the bid list. Any bid lists developed will be updated by June 30 of each year. Vendors will be given an opportunity to prequalify prior to each update of the list. The opportunity to prequalify and whether prequalification will be a condition of being awarded a contract must be published as provided in Section 1400.1505.

- 2) The fact that a prospective vendor has been prequalified does not necessarily represent a finding of responsibility for a particular procurement.
- 3) Distribution of and responses to the solicitation may be limited to prequalified vendors and award of a contract may be denied because a vendor was not prequalified.
- e) Bidders' Conferences
 

Bidders' conferences may be conducted to enhance understanding of the procurement requirements. The conferences must be announced to all prospective bidders known to have received an Invitation for Bids. The conference may be designated as attendance mandatory or attendance optional. The conference must be held long enough after the Invitation for Bids has been issued to allow bidders to become familiar with it, but sufficiently before bid opening to allow consideration of the conference results in preparing their bids. Only the written minutes of the conference are binding. Nothing stated in the bidders' conference changes the Invitation for Bids unless a change is made by written amendment to the Invitation for Bids. Minutes of the conference will be supplied upon request.
- f) Amendments to Invitations for Bids
  - 1) Form. Amendments to Invitations for Bids must be identified and must require that the bidder acknowledge receipt of all amendments issued. The amendment must reference the portions of the Invitation for Bids it amends.
  - 2) Distribution. Amendments must be sent to all prospective bidders known to have received an Invitation for Bids.
  - 3) Timeliness. Amendments must be distributed within a reasonable time to allow prospective bidders to consider them in preparing their bids. If necessary, the Chief Procurement Officer may extend the response time in writing, or by facsimile or telephone and confirmed in writing.
- g) Pre-Opening, Modification or Withdrawal of Bids
  - 1) Procedure. Bids may be modified or withdrawn by written notice received in the office designated in the Invitation for Bids prior to the time and date set for bid opening. A facsimile modification or withdrawal, or withdrawal received by telephone prior to the time and date set for bid opening, will be effective if followed in writing.
  - 2) Disposition of Bid Security. If a bid is withdrawn in accordance with this Section, the bid security, if any, will be returned to the bidder.
  - 3) Records. All documents relating to the modification or

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

withdrawal of bids must be made a part of the procurement file.  
h) Receipt, Opening and Recording of Bids

- 1) Receipt. Upon its receipt, each bid and modification must be time-stamped but not opened and must be stored in a secure place until the time and date set for bid opening. If a bid is opened in error, the file must so state.

- 2) Opening and Recording.

A) Bids and modifications must be opened publicly, in the presence of one or more witnesses, at the time, date, and place designated in the Invitation for Bids. The name of each bidder, the bid price, and any other information that the Chief Procurement Officer deems appropriate must be recorded.

B) The winning bid must be available for public inspection after award, along with the record of the other bids.

- 3) Confidential Data. The Chief Procurement Officer shall examine the bids to determine the validity of any requests for nondisclosure of trade secrets and other proprietary data identified in writing. If the parties do not agree as to the disclosure of data or other information, the bid must be rejected as nonresponsive.

- i) Bid Evaluation and Award

1) General. The contract is to be awarded to the lowest bid by a responsible and responsive bidder, unless otherwise permitted in this subsection (i). No bid may be evaluated for any requirements or criteria that are not disclosed in the Invitation for Bids.

- 2) Determination of Bidder as Responsible and Responsive. The Chief Procurement Officer or Purchasing Officer shall reach the determination of whether each bidder is responsible and responsive. The determination must be conducted to determine whether each bid is acceptable and appropriate for further evaluation and not for the purpose of determining whether one bidder's product or service capability is superior to another. The determination shall be in writing and made part of the procurement file.

- 3) Product Quality or Service Capability. The Chief Procurement Officer or Purchasing Officer shall also evaluate and make a notation of any differences in the product quality or service capability among the responsible and responsive bidders before reaching the determination of the lowest bidder.

- 4) Determination of Lowest Responsible and Responsive Bidder. Bids must be evaluated to determine which responsible and responsive bidder offers the lowest cost to the State in accordance with the evaluation criteria in the Invitation for Bids. Only objectively measurable criteria in the Invitation for Bids may be applied in determining the lowest bidder.

- 5) Award. The Chief Procurement Officer or Purchasing Officer shall

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

award the contract to the lowest responsible and responsive bidder, unless the differences in product quality or service capability suggest that the selection of another bid is in the best interest of the State.

- 6) Price Negotiation. The Chief Procurement Officer or Purchasing Officer may negotiate with the low bidder to obtain a lower price for the item bid.

- j) Notification, Publication and Documentation of Award

Following the award, a notice of contract must be provided to the successful bidder, published as provided in Section 1400.1505, and made a part of the procurement file. The notice of contract awarded must indicate if a bidder other than the lowest responsible and responsive bidder was selected and the basis for the selection.

Section 1400.2010 Multi-Step Sealed Bidding  
EMERGENCY

- a) Description

Multi-step sealed bidding is a two-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced offers to be evaluated by the Treasurer's office, and a second phase in which those bidders whose unpriced offers are determined to be acceptable during the first phase have their price bids considered.

- b) Applicability of Requirements

Except for the variations described in this Section, all the requirements for competitive sealed bidding in Section 1400.2005 apply to multi-step sealed bidding.

- c) Conditions for Use

The multi-step sealed bidding method may be used when it is considered impracticable by the Chief Procurement Officer or Purchasing Officer to initially prepare a specification to support an award based on price.

- d) Procedure for Phase One of Multi-Step Sealed Bidding

1) Form. Multi-step sealed bidding must be initiated by the issuance of an Invitation for Bids in the form required for competitive sealed bidding by Section 1400.2005 with the addition of the following information:

- A) that unpriced offers are requested;
- B) whether priced bids are to be submitted at the same time as unpriced offers in a separate sealed envelope;
- C) that it is a multi-step sealed bid procurement, and priced bids will be considered only in the second phase and only from those bidders whose unpriced offers are found acceptable in the first phase;
- D) the criterion to be used in the evaluation of the unpriced offers;
- E) that the Treasurer's office, to the extent the Chief

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

Procurement Officer or Purchasing Officer finds necessary, may conduct oral or written discussions of the unpriced offers; and

F) that the item being procured must be furnished generally in accordance with the bidder's unpriced offer as found to be finally acceptable and must meet the requirements of the Invitation for Bids.

2) Amendments to the Invitation for Bids. After receipt of unpriced offers, amendments to the Invitation for Bids will be distributed only to bidders who submitted unpriced offers, and they will be permitted to submit new unpriced offers or to amend those submitted. The Invitation for Bids may be cancelled in accordance with Section 1400.2520 and a new Invitation for Bids issued if, in the opinion of the Chief Procurement Officer, a contemplated amendment will significantly change the nature of the procurement.

3) Receipt and Handling of Unpriced Offers. Unpriced offers submitted by bidders must be opened in the presence of at least one witness. The offers must not be disclosed to unauthorized persons. Bidders may request nondisclosure of trade secrets and other proprietary data identified in writing.

4) Evaluation of Unpriced Offers. The unpriced offers submitted by bidders must be evaluated solely in accordance with the criteria in the Invitation for Bids. The unpriced offers must be initially categorized as:

- A) acceptable;
- B) potentially acceptable; or
- C) unacceptable, in which case the Chief Procurement Officer or Purchasing Officer shall record in writing the basis for finding an offer unacceptable and make it part of the procurement file.

5) Discussion of Unpriced Offers. The Chief Procurement Officer must initiate discussion with the vendors of the unpriced offers unless, in the Chief Procurement Officer's opinion, there are sufficient acceptable unpriced offers to assure effective price competition in the second phase without discussions, in which case he or she may initiate phase two of the procedure. The Chief Procurement Officer, or his or her designee, may conduct discussions with any vendor who submits an unpriced offer that is initially categorized as acceptable or potentially acceptable. During the course of the discussions the Chief Procurement Officer, or his or her designee, must not disclose any information derived from an unpriced offer to any other bidder. The Chief Procurement Officer may permit any bidder to submit supplemental information amending its offer.

6) Acceptability of Potentially Acceptable Unpriced Offer. Prior to phase two, the Chief Procurement Officer or Purchasing Officer shall determine whether the unpriced offers which were initially

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

categorized as potentially acceptable are acceptable or unacceptable.

e) Procedure for Phase Two of Multi-Step Sealed Bidding

1) Unless priced bids were submitted at the same time as the unpriced offers, phase two will be conducted by distributing an Invitation for Bids to those bidders whose unpriced offers were ultimately determined to be acceptable during the first phase, requesting priced bids in accordance with the initial or a revised specification.

2) If priced bids were submitted at the same time as unpriced offers, the priced bids from the acceptable bidders will be opened in phase two.

### Section 1400.2015 Competitive Sealed Proposals EMERGENCY

a) Competitive sealed proposals may be used whenever permitted by this Part or when the Chief Procurement Officer determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the State.

b) The types of procurements for which the competitive sealed proposals method of source selection may be used without a written determination of the Chief Procurement Officer include the following:

- 1) electronic data processing equipment, software, and services;
- 2) telecommunications equipment, software, and services;
- 3) consulting services;
- 4) banking services; and
- 5) legal services.

c) Generally, the Chief Procurement Officer should determine in writing that competitive sealed bidding is either not practicable or advantageous to the State, and enter into a contract by competitive sealed proposals where evaluation factors involve the relative abilities of offerors to perform, including degrees of experience or expertise, where the types of supplies or services may require the use of comparative, judgmental evaluations to evaluate them adequately, or where the type of need to be satisfied involves weighing aesthetic values to the extent that price is a secondary consideration.

1) When Competitive Sealed Bidding Is Not Practicable. Competitive sealed bidding is not practicable unless the nature of the procurement permits an award to a low bidder who agrees by its bid to perform without condition or reservation in accordance with the specification, delivery or performance schedule, and all other terms and conditions of the Invitation for Bids.

2) When Competitive Sealed Bidding Is Not Advantageous. A determination may be made to use competitive sealed proposals if it is determined that it is not advantageous to the State, even though practicable, to use competitive sealed bidding.

d) Prequalification



## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

The Chief Procurement Officer may require that vendors are prequalified in the manner described in Section 1400.2005 for competitive sealed bidding.

## e) Request for Proposals

1) Solicitation. Proposals must be solicited through a Request for Proposals which must be prepared in accordance with the requirements for an Invitation for Bids for competitive sealed bidding in Section 1400.2005 and contain the following additional information:

- A) A requirement that proposals are submitted in two parts. The first part should cover all items except price and the second part should cover price.
- B) A statement that discussions may be conducted with offerors who submit proposals determined to be reasonably capable of being selected for award, but that proposals may be accepted without a discussion.
- C) A statement of when and how price should be submitted.

2) Publication and Documentation of the Request for Proposals. The Request for Proposals must be published as provided in Section 1400.1505 and made part of the procurement file.

## f) Receipt, Opening and Recording of Proposals

Proposals and modifications must be time-stamped upon receipt but not opened and held in a secure place until the established due date. Proposals must be opened publicly in the presence of at least one witness at the time and place designated in the Request for Proposals, but proposals must be opened in a manner to avoid disclosure of their contents to competing offerors. A record of proposals must be prepared and must be open for inspection after contract is awarded. The register of proposals must include for all proposals the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the supply or service item offered. The register of proposals must be made part of the procurement file and be open to public inspection after award of the contract. Proposals and modifications may be shown only to personnel having a legitimate interest in them.

## g) Evaluation of Proposals

1) Evaluation Factors in the Request for Proposals. The Request for Proposals must state all of the evaluation factors, including price, and their relative importance.

2) Evaluation. The evaluation must be based on the evaluation factors in the Request for Proposals. Factors not specified in the Request for Proposals must not be considered. Numerical rating systems may be used but are not required. The first part of all proposals covering items other than price must be evaluated and ranked independently of the second part of all proposals.

3) Classifying Proposals. For the purpose of conducting discussions, proposals must be initially classified as:

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

- A) acceptable;

- B) potentially acceptable; or

- C) unacceptable, in which case the Chief Procurement Officer or Purchasing Officer shall record in writing the basis for finding an offer unacceptable and make it part of the procurement file.

## h) Proposal Discussions with Individual Offerors

1) Offerors that are classified as acceptable or potentially acceptable must be given a fair and equal opportunity to discuss their proposals.

2) Purposes of Discussions. Discussions are held to:

- A) promote understanding of the Treasurer's office requirements and the offerors' proposals; and
- B) facilitate arriving at a contract that is most advantageous to the State taking into consideration price and the other evaluation factors in the Request for Proposals.

3) Clarification of the Request for Proposals. If during discussions there is a need for any substantial clarification of, or change in, the Request for Proposals, the Request for Proposals must be amended to incorporate the clarification or change. Any substantial oral clarification of a proposal must be reduced to writing by the offeror.

4) Best and Final Offers. The Chief Procurement Officer may request best and final offers with a common date and time for submission of the offers. The Chief Procurement Officer, or his or her designee, may conduct additional discussions or change the Treasurer's office requirements and require another submission of best and final offers. If an offeror does not submit either a notice of withdrawal or another best and final offer, that offeror's immediately previous offer will be construed as its best and final offer.

5) Disclosure of Information. In conducting discussions there must be no disclosure of any information derived from proposals submitted by competing offerors. Any other information that is disclosed to any offeror must be provided to all competing offerors.

## i) Award

1) Determination. The award must be made by the Chief Procurement Officer or Purchasing Officer in accordance with a written determination showing the basis on which the award was found to be the most advantageous to the State, based on the Request for Proposals.

2) Notification, Publication and Documentation of the Award. The successful offeror will be promptly notified of the award. The notification of the award and the written determination must be published as provided in Section 1400.1505 and made part of the procurement file.

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

## Section 1400.2020 Small Purchases

## EMERGENCY

- a) Application  
Any individual procurement of supplies that does not exceed \$10,000 or any individual procurement of professional or artistic services for a nonrenewable term of one year or less that does not exceed \$20,000, may, at the discretion of the Chief Procurement Officer, be made without notice, competition, publication, or use of any prescribed method of source selection.
- b) Adjustment  
Each July 1, the small purchase maximum established in subsection (a) will be adjusted for inflation as determined by the Consumer Price Index for All Urban Consumers as determined by the United States Department of Labor and rounded to the nearest \$100.
- c) In determining whether a contract is under the limit, the value of the contract for the full term and any optional renewals, as well as the stated value of the goods or services plus any optional goods and services, must be utilized. Where the term is calculated month-to-month or in a similar fashion, the amount must be calculated for a twelve-month period.
- d) Procurement requirements must not be artificially divided to avoid using one of the other source selection methods described in this Part.
- e) If, after signing the contract, the actual need is determined to be more than the limits provided in this Section, and the Chief Procurement Officer determines that repurchase is not appropriate, the Chief Procurement Officer may follow the procedures for sole source or emergency procurement, if applicable, to obtain the additional supplies or services.

## Section 1400.2025 Sole Source Procurements

## EMERGENCY

- a) Application  
The provisions of this Section apply to procurement from a sole economically feasible source (referred to as sole source) that is above the limit for small purchases in Section 1400.2020 and does not qualify as an emergency procurement as defined in Section 1400.2030.
- b) Conditions for Use of Sole Source Procurement  
Sole source procurement is permissible when a good or service is available from only a single supplier or when only one supplier is deemed economically feasible. A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder or offeror authorized to provide that item.  
Changes to existing contracts germane to the original contract, which are necessary or desirable to complete the project, and which can be

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

best accomplished by the contract holder, may be procured under this provision.

- d) The determination as to whether a procurement may be made as a sole source must be made by the Chief Procurement Officer in writing and must include an explanation of why no other source would be suitable or acceptable. The determination must be made part of the procurement file. The Chief Procurement Officer shall also specify the application of the determination and the duration of its effectiveness.
- e) The Chief Procurement Officer shall, having defined a sole economically feasible source, issue a notice of intent to utilize the sole source method of procurement that sets forth a description of the item to be procured and the intended sole source contractor. A notice containing the following information must be published as provided in Section 1400.1505:
  - 1) name of the Chief Procurement Officer or Purchasing Officer, who performed the sole source procurement;
  - 2) name of the vendor;
  - 3) brief description of what the vendor will do or provide;
  - 4) contract price; and
  - 5) reason why the vendor was determined to be the sole economically feasible source.
- f) If there is no challenge to the Chief Procurement Officer's determination or if the Chief Procurement Officer is convinced that the sole source designation is appropriate after considering the challenge, the contract will be executed on the scheduled date. If a challenge is received that convinces the Chief Procurement Officer that the sole source designation is not appropriate, the Chief Procurement Officer or Purchasing Officer shall commence a competitive method of procurement unless an emergency situation exists.
- g) Negotiation in Sole Source Procurement  
The Chief Procurement Officer or Purchasing Officer shall conduct negotiations in an effort to obtain the most favorable price, delivery and other terms and conditions available for the State.
- h) Maintenance of Record  
The Chief Procurement Officer or Purchasing Officer shall maintain a record of sole source procurements in the procurement file showing:
  - 1) the vendor's name;
  - 2) the amount and type of the contract; and
  - 3) a listing of the goods or services procured under each contract.

## Section 1400.2030 Emergency Procurements

## EMERGENCY

- a) Applications  
The provisions of this Section apply to every procurement over the small purchase limit set in Section 1400.2020 that the Chief Procurement Officer determines is necessary under the following



## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

## circumstances:

- 1) public health or safety, including if the health or safety of any particular person, is threatened;
  - 2) repairs are needed to State property to protect against further loss or damage to State property, or to prevent loss or damage to State property;
  - 3) action is needed to prevent or minimize serious disruption in the operation of the Treasurer's office;
  - 4) action is needed to ensure the integrity of State records;
  - 5) a supplier of needed goods or services makes an announcement that gives the Chief Procurement Officer reason to determine that making a purchase immediately is in the State's best interest, including but not limited to an announcement of bankruptcy, going out of business, or loss of franchise;
  - 6) commodity items are available on the spot at prices that are favorable enough that good business judgment mandates a purchase;
  - 7) legal services to assist the Treasurer's office in the formulation of policy, in drafting or evaluating documents, or in determining the extent of statutory authority are needed more quickly than an alternative method of procurement under this Part would allow;
  - 8) escrow agent services for general obligation bonds and procurements for escrow agent services and registrar and paying agent services for college savings bonds are needed more quickly than an alternative method of procurement under this Part would allow; or
  - 9) bids or proposals received in accordance with a competitive sealed bid or competitive sealed proposal method are unreasonable, noncompetitive, or the price exceeds available funds, and time or other circumstances will not permit the delay required to resolicit competitive sealed bids or proposals.
- b) Scope of Emergency Conditions  
Emergency procurements must be limited to those supplies, services, or construction items necessary to meet the emergency.
- c) Authority to Make Emergency Procurements  
The Chief Procurement Officer or Purchasing Officer may make emergency procurements when the need cannot be met through normal procurement methods, but, whenever practicable, existing contracts must be utilized and, whenever practicable, approval by the Chief Procurement Officer must be obtained prior to the procurement.
- d) Source Selection Methods  
Any method of source selection, whether identified in this Part or not, may be used to conduct the emergency procurement. The procedure used must be selected to assure that the required supplies, services, or construction items are procured in time to meet the emergency. As much competition as is practicable must be obtained.
- e) Filing with the Auditor General  
The Chief Procurement Officer or Purchasing Officer shall file an

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

affidavit with the Auditor General within 10 days after making an emergency procurement setting forth the amount expended, the name of the contractor involved, and the conditions and circumstances requiring the emergency procurement. When only an estimate of cost is available, the estimate should be provided in the affidavit and the actual cost must be reported immediately after it is determined.

- f) Determination, Record and Publication of Emergency Procurements
- 1) Determination. The Chief Procurement Officer or Purchasing Officer shall make a written determination stating the basis for an emergency procurement and for the selection of the particular vendor.

- 2) Record. A record of each emergency procurement must be made as soon as practicable and must include the following information:

- A) the vendor's name;
- B) the amount and type of the contract (if only an estimate of the amount is available immediately, the record must be supplemented with the final amount once known);
- C) a description of what the vendor will do or provide;
- D) the reasons for using the emergency procurement method of source selection;
- E) the name of the Chief Procurement Officer or Purchasing Officer.

- 3) The written determination and the record of the emergency procurement must be made part of the procurement file and must be published as provided in Section 1400.1505 of this Part.

# Section 1400.2035 Procurement of Professional and Artistic Services

## EMERGENCY

- a) The provisions of this Section apply to every procurement of the professional and artistic services with the exception of the following:

- 1) sole source procurements;
- 2) emergency procurements; and
- 3) any procurement of professional and artistic services less than \$20,000 for a nonrenewable term of one year or less that the Chief Procurement Officer determines, in a writing that contains a brief explanation and is published as provided in Section 1400.1505, should be procured as a small purchase in accordance with Section 1400.2020.

- b) Uniform Procedures and Forms  
The Chief Procurement Officer shall develop uniform procedures and forms for use in the solicitation, review, and acceptance of all professional and artistic services. In addition to whatever information the Chief Procurement Officer requires and what is otherwise required by this Part, the following details must be included among the forms:



TREASURER'S OFFICE

NOTICE OF EMERGENCY RULE

- 1) a description of the goal to be achieved;
  - 2) the services to be performed;
  - 3) the need for the service;
  - 4) the qualifications that are necessary; and
  - 5) a plan for post-performance review.
- The forms must be published as provided in Section 1400.1505.
- c) Contract Requirements
- Contracts must contain at least the following information:
- 1) the details listed in subsection (b);
  - 2) the duration of the contract, with a schedule of services, if applicable;
  - 3) the method for charging and measuring cost;
  - 4) the rate of remuneration;
  - 5) the maximum price; and
  - 6) any provisions that are required by the Chief Legal Counsel.
- d) Written Determinations Required Prior to Request for Proposals
- Prior to announcing the need for professional or artistic services, the Chief Procurement Officer or Purchasing Officer shall make a written determination that explains the nature of the services and how the Chief Procurement Officer or Purchasing Officer reached the determination that the services are professional or artistic. The written determination must be made part of the procurement file.
- e) Prequalification
- The Chief Procurement Officer may maintain a list of prequalified professional and artistic vendors. Vendors seeking to be added to the list shall submit a statement of qualifications in the following format:
- 1) the name of the vendor, the location of the vendor's principal place of business and any other locations that may be used to perform a contract with the Treasurer's office;
  - 2) educational qualifications and licenses;
  - 3) general background and experience;
  - 4) a listing and description of government contracts, including contracts with the Treasurer's office;
  - 5) resumes of the persons who will be responsible for performance of any contract awarded;
  - 6) statement of compliance with all State of Illinois requirements; and
  - 7) any additional relevant information.
- Vendors may amend statements of qualifications at any time by filing a new statement.
- f) Request for Proposals
- 1) Contents. The Request for Proposals must be drafted or approved by the Chief Procurement Officer and must contain at least the following information:
- A) the type and scope of services required;
  - B) a date by which proposals for the performance of the services must be submitted;

TREASURER'S OFFICE

NOTICE OF EMERGENCY RULE

- C) the type of information and data required of each offeror;
  - D) how the price should be presented;
  - E) the factors to be used in the evaluation and selection process and their relative importance; and
  - F) when practicable, a draft contract with a notice to the vendors that by submitting a response they are consenting to the terms and conditions of the draft agreement and agree to be bound by a final agreement that is substantially similar to the draft.
- 2) Evaluation. Proposals must be evaluated only on the basis of evaluation factors stated in the Request for Proposals. The relative importance of the evaluation factors will vary according to the type of services being procured. The minimum factors are:
- A) the plan for performing the required services;
  - B) ability to perform the services as reflected by technical training and education, general experience, specific qualifications and abilities of personnel proposed to be assigned to perform the services;
  - C) the personnel, equipment, and facilities to perform the services currently available or demonstrated to be made available at the time of contracting; and
  - D) a record of past performance of similar work.
- 4) Publication and Filing. The Request for Proposal must be published as provided in Section 1400.1505 and must be made part of the procurement file.
- 9) Bidders' Conferences
- Bidders' conferences may be conducted to enhance understanding of the procurement requirements. They must be announced to all prospective proposers known to have received a Request for Proposal. The conference may be designated as attendance mandatory or attendance optional. The conference should be held long enough after the Request for Proposals has been issued to allow proposers to become familiar with it, but sufficiently before the opening of proposals to allow consideration of the conference results in preparing their proposals. Only the written minutes of the conference are binding. Nothing stated in the bidders' conference changes the Request for Proposals unless a change is made by written amendment to the Request for Proposals. Minutes of the conference must be supplied upon request.
- h) Amendments to Requests for Proposals
- 1) Form. Amendments to Requests for Proposals must be identified and must require that the proposer acknowledge receipt of all amendments issued. The amendment must reference the portions of the Request for Proposals it amends.
  - 2) Distribution. Amendments must be sent to all prospective proposers known to have received a Request for Proposal.
  - 3) Timeliness. Amendments must be distributed within a reasonable time to allow prospective bidders to consider them in preparing

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

their bids. If necessary, the Chief Procurement Officer may extend the response time in writing, or by facsimile or telephone and confirmed in the amendment.

- i) Receipt and Handling of Proposals  
Proposals and modifications must be sent to the Chief Procurement Officer where they must be time-stamped upon receipt but not opened and held in a secure place until the established due date and time, at which time they will be opened by the Chief Procurement Officer. Proposals must not be opened publicly nor disclosed to unauthorized persons and must be opened in the presence of at least one witness. A record of proposals that includes the following must be established for all proposals: the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the services offered. The register of proposals must be open to public inspection only after award of the contract and must be made part of the procurement file at that time. To the extent permitted by the contract entered into with the vendor, the successful proposal must be available for inspection by the public; however, proposals of offerors who are not awarded the contract must not be open to public inspection.

- j) Request for Nondisclosure of Data

If the offeror selected for award has requested in writing the nondisclosure of trade secrets and other proprietary data so identified, the Chief Procurement Officer shall examine the request in the proposal to determine its validity prior to entering into negotiations with the offeror. If the parties do not agree as to the disclosure of data in the contract, the Chief Procurement Officer may reject the proposal.

- k) Discussions

1) Discussions Permissible. The Chief Procurement Officer or Purchasing Officer shall evaluate all proposals submitted and may conduct discussions with any proposer. The purposes of the discussions are to:

- A) determine in greater detail the proposer's qualifications; and
  - B) explore with the offeror the scope and nature of the required services, the offeror's proposed method of performance, and the relative utility of alternative methods of approach.
- 2) No Disclosure of Information. No information derived from proposals submitted by an offeror may be disclosed to any other proposer.
- 3) Best and Final Offers. The Chief Procurement Officer may request best and final offers with a common date and time for submission of the proposals. The Chief Procurement Officer may conduct additional discussions or change the specifications or other contract requirements and require another submission of best and final proposals. If a proposer does not submit either a notice

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

of withdrawal or another best and final offer, the proposer's immediate previous proposal will be construed as its best and final proposal.

- 1) Negotiation and Award of Contract

1) General. The Chief Procurement Officer or Purchasing Officer shall negotiate a contract with the best qualified proposer, based on the evaluation factors in the request for proposals, for the required services at compensation determined in writing to be fair and reasonable.

2) Successful Negotiation of Contract with Best-Qualified Proposer. If compensation, contract requirements, and contract documents can be agreed upon with the best-qualified proposer, the contract must be awarded to that proposer, unless the procurement is cancelled.

3) Failure to Negotiate Contract with Best-Qualified Offeror.

A) If compensation, contract requirements, or contract documents cannot be agreed upon with the best qualified proposer, a written record stating the reasons must be made part of the procurement file and the Chief Procurement Officer or Purchasing Officer shall advise that proposer of the termination of negotiations.

B) Upon failure to negotiate a contract with the best-qualified offeror, the Chief Procurement Officer or Purchasing Officer may enter into negotiations with the next most qualified offeror.

4) Ranking by Price. For contracts with annualized value that exceeds \$25,000, evaluation and ranking by price are required. The Chief Procurement Officer may, with the Treasurer's approval, select an offeror other than the offeror with the most favorable price, if the Chief Procurement Officer explains in a written decision why another offeror was selected. A copy of the decision must be forwarded to the Chief of Staff for review. The written decision must be made part of the contract and published as provided in Section 1400.1505.

5) Notice of Award. Written notice of award must be promptly provided to the successful offeror, published as provided in Section 1400.1505 and made a part of the procurement file. The notice must provide, at a minimum, the following:

- A) the name of the Chief Procurement Officer or Purchasing Officer;
- B) the successful vendor;
- C) a contract reference number or other identifier; and
- D) the value of the contract.

# Section 1400.2040 Procurement of Real Property Leases EMERGENCY

- a) Applicability

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

This Section applies to all leases for real property, including office and storage space, buildings, and other facilities for the Treasurer's office, with the exception of the following:

- 1) property of less than 10,000 square feet;
- 2) rent of less than \$100,000 per year;
- 3) nonrenewable leases with a duration of less than one year;
- 4) specialized space available at only one location; or
- 5) renewal of extension of any lease in effect before July 1, 1998 if:

- A) the Chief Procurement Officer determines in writing that the renewal or extension is in the best interest of the State;
- B) the Chief Procurement Officer submits his or her written determination and the renewal or extension to the Procurement Review Board;
- C) the Procurement Review Board does not object in writing to the renewal or extension within 30 days after its submission; and
- D) the Chief Procurement Officer publishes the renewal or extension as provided in Section 1400.1505.

## b) Request for Information

Except as otherwise provided in this Section, all contracts for leases of real property must be awarded by the following Request for Information process. The Request for Information must include the following:

- 1) the type of property to be leased;
- 2) the proposed uses of the property;
- 3) the duration of the lease;
- 4) the preferred location of the property; and
- 5) a general description of the configuration desired.

## c) Publication of Notice

Notice of the Request for Information must be published as provided in Section 1400.1505 and must also be published in a newspaper of general circulation in the community or communities where the Treasurer's office is seeking space.

## d) Evaluation of Responses

The evaluation must be based on price and the ability of the respondent to meet the criteria in the Request for Information.

## e) Negotiations with Individual Offerors

- 1) For the purpose of conducting negotiations, proposals must be initially classified as:

- A) acceptable;
- B) potentially acceptable; or
- C) unacceptable, in which case the Chief Procurement Officer or Purchasing Officer shall record in writing the basis for finding an offer unacceptable and make it part of the procurement file.

- 2) Negotiations will be entered into with respondents who are classified as acceptable or potentially acceptable for the

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

purpose of securing a lease that is in the best interest of the State.

- 3) A written determination of the acceptability of each respondent and a report of the negotiations will be retained in the procurement file and will include the reasons for the final selection.

## f) Award

The lease will be awarded to the respondent that the Chief Procurement Officer deems to be most capable of meeting the needs of the Treasurer's office. The notice of award must be promptly provided to the successful respondent and must be published as provided in Section 1400.1505. When the lowest proposer by price is not selected, the Chief Procurement Officer shall issue a written explanation for the selection of another proposer. The written explanation must also be published as provided in Section 1400.1505.

## g) Lease Agreements

- 1) All leases must be in writing and approved by the Chief Legal Counsel.

## 2) Length of Leases.

- A) Term. All leases must be for a term that does not exceed 10 years and must include a termination option in favor of the Treasurer's office after five years.

- B) Renewal. Leases may include a renewal option if the leases and any renewals do not exceed a 10-year term. An option to renew may be exercised only when the Chief Procurement Officer determines in writing that renewal is in the best interest of the State and notice of the exercise of the option is published as provided in Section 1400.1505.

## h) Purchase Option

Initial leases of all space in entire, free-standing buildings must include an option to purchase exercisable by the State, unless the Chief Procurement Officer determines that inclusion of a purchase option is not in the State's best interest and publishes that determination as provided in Section 1400.1505.

## i) Rent Without Occupancy

Except when deemed by the Procurement Review Board to be in the best interest of the State, the Treasurer's office may not incur rental obligations before occupying the space rented.

## j) Local Site Preference

The Chief Procurement Officer may, in his or her discretion, give leasing preferences to sites located in enterprise zones, tax increment financing districts or redevelopment districts.

## Section 1400.2045 Other Methods of Source Selection

## EMERGENCY

- a) CMS Warehouses

Prior to any equipment procurement, the Treasurer's office should



## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

consider property available from the State and Federal Surplus Warehouses that are under the jurisdiction CMS.

- b) State Agencies and Other Governmental Units  
Various goods and services are available from State agencies and other governmental units. These may be procured without notice and competition.

## c) Auction

Purchases may be made at an auction in accordance with the procedural requirements applicable to the particular auction. Notice and competition is not required and the amount payable will be the amount bid and accepted plus any required buyer's premium.

## d) Donations

With approval of the Chief Procurement Officer, if the Treasurer's office receives a donation that provides the majority of the funding for a particular project, it may follow any procurement or contracting requirements established as a condition of the donation, but must follow this Part whenever practicable.

## SUBPART E: GENERAL PROCUREMENT GUIDELINES

Section 1400.2505 General Provisions  
EMERGENCY

## a) Late Bids, Proposals, Responses, Withdrawals and Modifications

- 1) Definition. Any bid, proposal or response received after the time, date and place set for receipt is late. Any withdrawal or modification of a bid, proposal or response received after the time and date set for opening of bids, proposals or responses at the place designated for opening is late.

- 2) Treatment. No late bid, proposal or response, modification, or withdrawal will be considered unless it is received before contract award, and the bid, proposal, response, modification, or withdrawal would have been timely but for the action or inaction of Treasurer's office personnel.

- 3) Records. Records must be made and kept for each late bid proposal, response, modification, or withdrawal.

- 4) Any other submission that has a time or date deadline must be treated in the same manner as a late bid, proposal or response.

## b) Extension of Time

- 1) The date or time for submitting a bid, proposal, response, modification or withdrawal may be extended by the Chief Procurement Officer prior to the date or time for the convenience of the Treasurer's office.

- 2) After opening bids, proposals, or responses the Chief Procurement Officer may request that the offerors extend the time during which the State may accept their bids, proposals, or responses if, with regard to bids, no other change is permitted. The reasons for requesting the extension must be documented.

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

## c) Electronic and Facsimile Submissions

- 1) The Invitation for Bids, Request for Proposals, or Request for Information may state that electronic and facsimile submissions will be considered if they are received at the designated office by the time and date set for receipt. Any required attachments will be submitted as stated in the Invitation for Bids, Request for Proposals or Request for Information.

- 2) Electronic submissions will be opened in accordance with electronic security measures in effect at the time of opening. Unless the electronic submission procedures provide for a secure receipt, the vendors assume the risk of premature disclosure due to submission in unsealed form.

- 3) Facsimile submissions must be placed in a sealed container upon receipt and opened as other submissions. The vendors assume the risk of premature disclosure due to submission in unsealed form.

## d) Intent to Submit

The Invitation for Bids, Request for Proposals, or Request for Information may require that vendors submit, by a certain time and date, a notice of their intent to submit a bid, proposal, or response. Bids, proposals, and responses submitted without complying with the notice of intent requirement will be rejected.

## e) Only One Bid, Proposal or Response Received

If only one responsive bid, proposal, or response is received, an award may be made to the single offeror if the Chief Procurement Officer finds that the price submitted is fair and reasonable, and that either other prospective offerors had a reasonable opportunity to respond or there is not adequate time for resolicitation. Otherwise:

- 1) new bids, proposals or responses may be solicited;
- 2) the procurement may be cancelled; or
- 3) if the Chief Procurement Officer determines in writing that the need for the supply or service continues, but that:
  - A) after attempting to negotiate a better price, the one offer is not fair and reasonable and there is no time for resolicitation;
  - B) the vendor is not responsible; or
  - C) resolicitation would likely be futile,
 the procurement may be conducted with any vendor as a sole source procurement under Section 1400.2025 or as an emergency procurement under Section 1400.2030, as appropriate.

## f) Unsolicited Offers

- 1) Defined. An unsolicited offer is any offer other than one submitted in response to a solicitation.
- 2) Conditions for Consideration. An unsolicited offer must be in writing and must be sufficiently detailed to allow a judgment to be made concerning the potential utility of the offer to the State.
- 3) Evaluation. The unsolicited offer will be evaluated to determine its utility to the State and whether it would be to the State's

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

advantage to enter into a contract based on the offer. An unsolicited offer that meets the requirements of subsection (f)(2) above may be considered for award if the procurement also meets the requirements of Section 1400.2020 for small purchases or Section 1400.2025 for sole source procurements, in which case those procedures must be followed as applicable.

- 4) Confidentiality. Any request for confidentiality of data contained in an unsolicited offer must be made in writing. If an award is made, confidentiality of data must be agreed upon by the parties and governed by the provisions of the contract. If agreement cannot be reached on confidentiality, the Chief Procurement Officer or Purchasing Officer shall reject the unsolicited offer.

- g) Clarification of Bids, Proposals and Responses

The Chief Procurement Officer or Purchasing Officer may request that a vendor clarify its bid, proposal or response as a part of the evaluation process. A vendor is not allowed to change its bid, proposal or response in response to a request for clarification without the written approval of the Chief Procurement Officer.

- h) Extension of Time on Indefinite Quantity Contracts

The time of performance of an indefinite quantity contract may be extended upon agreement of the parties, provided the extension is for 90 days or less and the Chief Procurement Officer determines in writing that it is not practicable to award another contract at the time of the extension.

- i) Increase in Quantity on Definite Quantity Contracts

The quantity that may be ordered from a definite quantity contract may be increased by up to 20% provided the Chief Procurement Officer or Purchasing Officer determines that separate procurement of the additional quantity is not likely to achieve lower pricing. The quantity may be increased by any percentage provided the dollar value of the increase does not exceed the small purchase threshold applicable to the type of good or service.

- j) Novation or Change of Name

1) Assignment. No State contract is transferable, or otherwise assignable without the written consent of the Chief Procurement Officer, but a vendor may assign monies receivable under a contract after due notice to the State. Assignment may require the execution of a contract with the assignee that meets all requirements for contracting with the State.

2) Recognition of a Successor in Interest; Novation. When in the best interest of the State, a successor in interest may be recognized in a novation agreement in which the transferor and the transferee must agree that:

- A) the transferee assumes all of the transferor's obligations;
- B) the transferee meets all requirements for contracting with the State;
- C) the transferor waives all rights under the contract as

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

against the State; and

- D) unless the transferor guarantees performance of the contract by the transferee, the transferee shall, if required by the State, furnish a satisfactory performance bond.

- 3) Change of Name. When a vendor requests to change the name in which it holds a contract with the State, the Chief Procurement Officer shall, upon receipt of a document indicating the change of name, enter into an agreement with the requesting vendor to effect the change of name. The agreement changing the name must specifically indicate that no other terms and conditions of the contract are changed.

- k) Contracting for Installment Purchase Payments, Including Interest
- Contracts may provide for installment purchase payments, including interest charges, over a period of time. The interest rate shall not exceed that established by law.

## Section 1400.2510 Tie Bids and Proposals

## EMERGENCY

- a) Tie bids and proposals are those from responsive and responsible vendors that are identical in price or evaluation.

- b) Tie bids and proposals are treated as follows:

- 1) If the tied vendors include an Illinois resident vendor and a non-resident vendor, the Illinois resident vendor is given the award. "Illinois resident vendor" has the meaning given in Section 1400.4510. In all other situations, the decision is made in accordance with subsections (b)(2) through (b)(5).

- 2) If there is a significant difference in responsibility (including ability to provide the service or deliver in the quantity and at the time required), the award is made to the vendor who is deemed to be the most responsible. A vendor who has had experience in contracting with the State may be given additional consideration in determining responsibility if the Chief Procurement Officer or Purchasing Officer determines that dealing with a vendor that has knowledge of State requirements, contracts, job sites, payment practices and other similar factors, and with which there has been favorable past experience, increases the likelihood of successful performance.

- 3) If there is no significant difference in responsibility, but there is a difference in the quality of the goods or services offered, the vendor offering the best quality is accepted.

- 4) If there is no significant difference in responsibility and no difference in quality of the goods or services offered, the vendor offering the earliest delivery time is accepted in any case in which the solicitation specified that the needs of the Treasurer's office require as early delivery as possible.

- 5) If the bids or proposals are equal in every respect, the award is made by lot unless the Chief Procurement Officer determines that



## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

splitting the award among two or more of the tied bidders or proposers is in the best interest of the State. Awards may be split if all affected bidders or proposers agree, if splitting is feasible given the type of good or service requested, if overall pricing would not increase, if delivery would be better ensured, or if necessary or desirable to promote future competition.

- c) Record
  - 1) Records must be made of all procurements on which tie bids or proposals are received and must be published as provided in Section 1400.1505, showing at least the following information:
  - 2) the identification number of the solicitation;
  - 3) the good or service; and
  - 4) a listing of all the bidders or proposers and the prices submitted.
- 4) The records must be made part of the procurement file.

#### Section 1400.2515 Correction or Withdrawal of Proposals EMERGENCY

- a) General
  - 1) Corrections to bids, proposals or responses are allowed, but only to the extent correction is not prejudicial to the interest of the State or fair competition as determined by the Chief Procurement Officer or Purchasing Officer. Withdrawals of proposals are allowed as provided in this Section.
- b) Mistakes Discovered Before Opening
  - 1) A vendor may correct mistakes discovered before the time and date set for opening by withdrawing or correcting as provided in this Section.
- c) Confirmation of Mistake
  - 1) When the Chief Procurement Officer or Purchasing Officer knows or has reason to conclude that a mistake has been made, the officer should request the vendor to confirm the information. Situations in which confirmation should be requested include obvious or apparent errors on the face of the document or a price unreasonably lower than the others submitted. If the vendor alleges a mistake in the bid, proposal or response, it may be corrected or withdrawn if the conditions in this Section, as applicable, are met.
- d) Mistakes Discovered After Opening but Before Award
  - 1) Minor Mistakes. A minor mistake is one that is a matter of form or pertains to some immaterial or inconsequential defect or variation of a bid, proposal or response from the exact requirement of the solicitation, the correction or waiver of which would not be prejudicial to the State. The Chief Procurement Officer or Purchasing Officer shall waive minor mistakes or allow the offeror to correct them depending on which is in the best interest of the State. Minor mistakes include insignificant mistakes where the effect on price, quantity, quality, delivery, or contractual conditions is negligible.

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

Examples of minor mistakes as to form include the failure of an offeror to:

- A) return the number of signed bids, proposals, or responses required by the solicitation;
  - B) sign the bid, proposal or response, but only if the unsigned bid, proposal or response is accompanied by other material indicating the offeror's intent to be bound, including but not limited to signature on an auxiliary form, submission of a guarantee or submission of a signed transmittal letter; or
  - C) acknowledge receipt of an amendment to the solicitation, but only if:
    - i) it is clear from the bid, proposal or response that the offeror received the amendment and intended to be bound by its terms; or
    - ii) the amendment involved had a negligible effect on price, quantity, quality, or delivery.
- 2) Corrections of Mistakes. If discussions are not held or if the best and final offers upon which award will be made have been received, mistakes may be corrected and the intended correct offer considered only if:
- A) the mistake and the intended correct offer are clearly evident on the face of the bid, proposal or response, in which event the offer may not be withdrawn; or
  - B) the mistake is not clearly evident on the face of the bid, proposal or response, but the offeror submits adequate proof which clearly and convincingly demonstrates both the existence of a mistake and the intended correct offer, and that correcting the mistake would not be contrary to the fair and equal treatment of other offerors.
- 3) Withdrawal of Bids, Proposals or Responses. If discussions are not held, or if the best and final offers upon which award will be made have been received, the offeror may be permitted to withdraw the bid, proposal or response if:
- A) the mistake is clearly evident on the face of the proposal and the intended correct offer is not;
  - B) the offeror submits proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made but does not demonstrate the intended correct offer; or
  - C) the offeror submits adequate proof that clearly and convincingly demonstrates the intended offer, but to allow corrections would be contrary to the fair and equal treatment of other offerors.
- e) Mistakes Discovered After Award
    - 1) Mistakes may not be corrected after award of the contract except when the Chief Procurement Officer finds it would be unconscionable not to allow the mistake to be corrected.
  - f) Determinations Required
    - 1) When a proposal is corrected or withdrawn, or correction or withdrawal



## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

is denied, the Chief Procurement Officer or Purchasing Officer shall prepare a written determination documenting that relief was granted or denied in accordance with this Part.

#### Section 1400.2520 Cancellation of Solicitations and Rejection of Offers EMERGENCY

- a) Scope of this Section  
The provisions of this Section govern the cancellation of any Invitation for Bids, Request for Proposals, Request for Information or any other solicitation issued by the Treasurer's office and the rejection of any or all bids, proposals or responses in whole or in part.
- b) Policy  
Any solicitation may be cancelled without penalty, and any or all bids, proposals or responses may be rejected in whole or in part, when the Chief Procurement Officer or Purchasing Officer determines in writing that cancellation is in the State's best interest.
- c) Notice, Publication and Documentation  
When a solicitation is cancelled or the offers are rejected, notice of the cancellation or rejection will be promptly provided to all affected vendors, published as provided in Section 1400.1505, and made part of the procurement file.

## SUBPART F: SPECIFICATIONS AND SECURITY REQUIREMENTS

#### Section 1400.3005 Specifications EMERGENCY

- a) The Chief Procurement Officer's Responsibilities Regarding Specifications  
The Chief Procurement Officer shall write or authorize the writing of all specifications. A Purchasing Officer may write specifications for procurements for the Treasurer's office, subject to approval of the Chief Procurement Officer.
- b) Specifications Prepared by Other Than State Personnel
  - 1) Specifications may be prepared by other than Treasurer's office personnel, including, but not limited to, consultants, architects, engineers, designers, and other drafters of specifications for public contracts. Contracts for the preparation of specifications by other than State personnel must require the specification writer to adhere to State requirements.
  - 2) The person who prepared the specifications may not submit a bid or proposal to meet the procurement need unless the Chief Procurement Officer determines in writing that it would be in the best interest to accept a bid or proposal from that person and a notice to that effect is published as provided in Section 1400.1505.

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

- c) Procedures for the Development of Specifications
  - 1) All procurements must be based on specifications that accurately reflect the State's needs. Specifications must clearly and precisely describe the salient technical or performance requirements.
  - 2) Specifications must not include restrictions that do not significantly affect the technical requirements or performance requirements, or other legitimate State needs. All specifications must be written in a manner that describes the requirements to be met, without having the effect of exclusively requiring a proprietary supply or service, or procurement from a sole source, unless no other manner of description will suffice.
  - 3) Any specifications or standards adopted by business, industry, a not-for-profit organization or governmental unit may be adopted by reference.
  - 4) A specification may provide alternate descriptions where two or more design, functional, or performance criteria will satisfactorily meet the State's requirements.
- d) Brand Name or Equal Specification
  - 1) Brand name or equal specifications may be used when the Chief Procurement Officer or Purchasing Officer determines in writing that:
    - A) time does not permit the preparation of another form of specification, not including a brand name specification;
    - B) the nature of the product or the nature of the requirement makes use of a brand name or equal specification suitable for the procurement; or
    - C) use of a brand name or equal specification is in the State's best interest.
  - 2) Brand name or equal specifications must seek to designate more than one brand as "or equal", and must further state that substantially equivalent products to those designated will be considered for award.
  - 3) Required Characteristics. Unless the Chief Procurement Officer determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications must include a description of the particular design, functional, or performance characteristics that are required.
  - 4) Nonrestrictive Use of Brand Name or Equal Specifications. When a brand name or equal specification is used in a solicitation, the solicitation must contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. "Or equal" submissions will not be rejected because of minor differences in design, construction or features that do not affect the suitability of the product for its intended use. The burden of

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

proof that a product is equal is on the offeror.

- e) Brand Name Only Specification
  - 1) Use. A brand name only specification may be used only when the Chief Procurement Officer makes a written determination that is made part of the procurement file that only the identified brand name item or items will satisfy the State's needs.
  - 2) Competition. The Chief Procurement Officer or Purchasing Officer shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit those sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement must be made as a sole source procurement.

## Section 1400.3010 Security Requirements

## EMERGENCY

- a) The Chief Procurement Officer may require that a vendor furnish bid, proposal, or performance security on any contract.
- b) Security, unless otherwise specified, may be in the form of cashier's check, certified check, money order, irrevocable letter of credit, or bond. Any bond must be issued by a surety company authorized to do business in the State of Illinois.
- c) Unless the amount is set by law, the Chief Procurement Officer shall determine the amount, in dollars or percentage of contract price, that adequately protects the State's interests.
- d) A vendor may be required to furnish up to 100% performance security at any time during contract performance and at its cost, if it appears that delivery or production schedules cannot be met, quality is poor, responsibility is questioned and for other similar reasons.
- e) The Treasurer's office may require a bid or proposal security or a performance security on any contract.
- f) A vendor may submit a single or continuous security each year that will be applicable on all contracts of the Treasurer's office. When a security is obligated in an amount equal to the sum of accumulated security requirements, additional security must be submitted for any new contract awarded.
- g) Bid or proposal security will be returned to unsuccessful vendors as soon after award as possible. The bid or proposal security of the successful vendor will be returned after contracts have been signed and performance security, if any, submitted. Performance security will be returned upon full performance.

## SUBPART G: CONTRACTS

## Section 1400.3505 Types of Contracts

## EMERGENCY

- a) General

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

The Chief Legal Counsel shall determine the general form of all contracts. Subject to the limitations of this Section, the Chief Legal Counsel may use any type of contract that promotes the best interest of the State.

- b) Prohibitions and Limitation
  - Cost-plus-a-percentage-of-cost contracts are prohibited.
  - Cost-reimbursement contracts may only be used when the Chief Procurement Officer makes a written determination that a cost-reimbursement contract is likely to be less costly to the State than any other type or that it is impracticable to obtain the item except under that type of contract.

## Section 1400.3510 Duration of Contracts

## EMERGENCY

- a) General
  - 1) A multi-year contract for a term up to ten years is authorized when it is in the best interest of the State.
  - 2) A license agreement or other agreement may have a term longer than 10 years, including a perpetual term, provided the payment term is limited to no more than ten years.
- b) The contractual obligation of the Treasurer's office in each fiscal period after the period in which a contract is executed is subject to appropriation and availability of funds for the obligation. Every contract that extends beyond the fiscal year that the contract is awarded must provide that, in the event that funds are not available for any subsequent fiscal period, the remainder of the contract may be cancelled by the State without penalty to or further payment being required by the State. This provision applies to only those contracts that are funded in whole or in part by funds appropriated by the Illinois General Assembly or other governmental entity.
- c) Conditions for Use of Multi-year Contracts
  - 1) special production of definite quantities or the furnishing of long-term services are required to meet State needs; or
  - 2) it is determined by the Chief Procurement Officer that a multi-year contract will serve the best interest of the State by encouraging effective competition or otherwise promoting economies in State procurement. The following factors must be considered by the Chief Procurement Officer before making the determination:
    - A) firms that are not willing or able to compete because of high start-up costs or capital investment in facility expansion and will be encouraged to participate in the competition when they are assured of recouping the costs during the period of contract performance;
    - B) lower production costs because of larger quantity of service requirements, and substantial continuity of production or

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

performance over a longer period of time, can be expected to result in lower unit prices;

- C) stabilization of the contractor's work force over a longer period of time may promote economy and consistent quality; or

- D) the cost and burden of contract solicitation, award, and administration of the procurement may be reduced.

d) Multi-year Contract Procedure

The solicitation must state:

- 1) the proposed term;
- 2) the amount of supplies or services required for the proposed contract period;
- 3) whether offerors may submit prices for:
  - A) the first fiscal period only;
  - B) the entire time of performance only; or
  - C) both the first fiscal period and the entire time of performance.
- 4) that a multi-year contract may be awarded and how award will be determined.

e) Renewals

- 1) Where the original procurement specifically called for an initial term plus renewals, the renewals may be exercised without further procurement activity, provided the initial term and the exercised renewals may not exceed 10 years and the option is reserved solely to the State.
- 2) Where the original procurement was silent as to renewals, further procurement activity is required.

Section 1400.3515 Contract Pricing

EMERGENCY

Unless otherwise allowed by the solicitation, prices quoted will be all-inclusive covering transportation, transit insurance, delivery, installation, taxes, and any other costs.

Section 1400.3520 Contract Provisions

EMERGENCY

a) Mandatory Provisions

The following provisions are required for all contracts entered into by the Treasurer's office, in addition to the requirements of State and federal law and the regulations of the Office of the Comptroller:

- 1) Subcontractors. Any contract granted hereunder must state whether the services of a subcontractor will be used. The contract must include the names and addresses of all subcontractors and the expected amount of money each will receive under the contract. The contractor will be required to get approval from the Chief Procurement Officer prior to adding or

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

changing subcontractors.

- 2) Subject to Appropriation. All leases must recite that they are subject to termination and cancellation in any year for which the General Assembly fails to make an appropriation to make payments under the terms of the lease.

- 3) Right to Audit Books and Records.

- A) Maintenance of books and records. Every contract and subcontract must require the contractor or subcontractor, as applicable, to maintain books and records relating to the performance of the contract or subcontract and necessary to support amounts charged to the State under the contract or subcontract. The books and records must be maintained by the contractor or subcontractor for a period of 3 years from the later of the date of final payment under the contract or completion of the contract or subcontract and the 3-year period must be extended for the duration of any audit in progress at the time of that period's expiration.

- B) Audit. Every contract and subcontract must provide that all books and records required to be maintained under subsection (a) must be available for review and audit by the Auditor General and the Treasurer's office. Every contract and subcontract must require the contractor and subcontractor, as applicable, to cooperate fully with any audit.

- C) Failure to maintain books and records. Failure to maintain the books and records required by this Section will establish a presumption in favor of the State for the recovery of any funds paid by the State for which required books and records are not available.

- b) Optional Provision

Any contract entered into by the Treasurer's office under this Part may contain a clause requiring that if more favorable terms are granted by the contractor to any similar governmental agency in any state in a contemporaneous agreement let under the same or similar financial terms and circumstances for comparable supplies or services, the more favorable terms will be applicable under the contract.

Section 1400.3525 Prevailing Wage Requirements

EMERGENCY

a) Applicability

All services, as defined in subsection (b), furnished under service contracts of \$2,000 or more or \$200 or more per month and under printing contracts are subject to the following prevailing wage requirements:

- 1) Not less than the general prevailing wage rate of hourly wages for work of a similar character in the locality in which the work is produced may be paid by the successful vendor to its employees who perform the work on the State contracts. The offeror, in



## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

order to be considered to be a responsible offeror for the purposes of this Part, must certify to the Treasurer's office that wages to be paid to its employees are no less, and fringe benefits and working conditions of employees are not less favorable, than those prevailing in the locality where the contract is to be performed. Prevailing wages and working conditions are determined by the Director of the Illinois Department of Labor.

2) Whenever a collective bargaining agreement is in effect between an employer, other than governmental body, and service or printing employees as defined in this Section who are represented by a responsible organization that is in no way influenced or controlled by the management, that agreement and its provisions will be considered as conditions prevalent in that locality and will be the minimum requirements taken into consideration by the Director of Labor.

3) Collective bargaining agreements between State employees and the State of Illinois will not be taken into account by the Department of Labor in determining the prevailing wage rate.

b) As used in this Section, "services" means janitorial cleaning services, window cleaning services, food services, and security services. "Printing" means and includes all processes and operations involved in printing, including but not limited to letterpress, offset, and gravure processes, the multilith method, photographic or other duplicating process, the operations of composition, platemaking, presswork, and binding, and the end products of those processes, methods, and operations. As used in this Part "printing" does not include photocopiers used in the course of normal business activities, photographic equipment used for geographic mapping, or printed matter that is commonly available to the general public from contractor inventory.

c) For printing contracts, location means one of the following areas:

- 1) Cook County.
- 2) Boone, Bureau, Carroll, Champaign, DeKalb, DeWitt, DuPage, Ford, Fulton, Grundy, Hancock, Henderson, Henry, Iroquois, Jo Daviess, Kane, Kankakee, Kendall, Knox, Lake, LaSalle, Lee, Livingston, Logan, Marshall, Mason, McDonough, McHenry, McLean, Mercer, Ogle, Peoria, Piatt, Putnam, Rock Island, Schuyler, Stark, Stephenson, Tazewell, Vermillion, Warren, Whiteside, Will, Winnebago, Woodford.
- 3) Adams, Alexander, Bond, Brown, Calhoun, Cass, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Franklin, Gallatin, Greene, Hamilton, Hardin, Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Macon, Macoupin, Madison, Marion, Massac, Menard, Monroe, Montgomery, Morgan, Moultrie, Perry, Pike, Pope, Pulaski, Randolph, Richland, Saline, Sangamon, Scott, Shelby, St. Clair, Union, Wabash, Washington, Wayne, White, Williamson.

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

- 4) Where the printing is performed in a plant outside the jurisdiction of this State, it is deemed produced in the Illinois locality in which delivery of the printing ordered is required to be made. Where the printing is required to be delivered to more than one Illinois locality, it is deemed produced in the Illinois locality to which the largest dollar volume of printing under the contract is to be delivered.
- d) For janitorial services, window washing and security guard services, location means the county in which the work is to be performed.
- e) This Section does not apply to services furnished under contracts for professional or artistic services.
- f) This Section does not apply to vocational programs of training for physically or mentally handicapped persons or to sheltered workshops for the severely disabled.

## SUBPART H: DISPUTES, PROTESTS AND CONTROVERSIES

Section 1400.4005 Disputes and Protests Regarding Solicitations and Awards  
EMERGENCY

- a) Procedures
  - Any dispute or protest regarding solicitations and awards must be communicated to the Chief Procurement Officer by the vendors within 7 days after the protester knows or should have known of the facts giving rise thereto and before a contract is executed between the Treasurer's office and the successful vendor. The vendors may be required to provide additional information to the Treasurer's office in order to process the dispute or protest. If the Chief Procurement Officer is unable to resolve the issue in a timely manner, then it will be referred to the Procurement Review Board for a final determination that will be communicated to the vendors involved in the dispute or protest and made part of the procurement file within 7 days after the referral by the Chief Procurement Officer.
- b) Procurement Delays
  - The investigation of a dispute or protest may cause a delay in the procurement process if deemed necessary by the Chief Procurement Officer. If an action concerning the protest has commenced in court, the Chief Procurement Officer will not act on the protest but will refer the protest to the Attorney General, unless the court requests, expects, or otherwise expresses interest in the decision of the Chief Procurement Officer.
- c) Stay or Withdrawal of Award
  - An award may be stayed or withdrawn by the Chief Procurement Officer if the Procurement Review Board reaches a determination that to do so is necessary in fairness to the other offerors and to protect the interests of the State.

## Section 1400.4010 Contract Controversies

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

**EMERGENCY**

Contract controversies must be promptly referred to the Chief Procurement Officer for resolution. If the Chief Procurement Officer is unable to resolve the controversy, the controversy will be referred to the Chief Legal Counsel who will attempt to resolve the matter. If the Chief Legal Counsel is unable to resolve the matter satisfactorily, he or she may request the Attorney General's assistance in resolving the dispute. Every contract entered into by the Treasurer's office must have a provision that deals with any failures by the vendor to fully perform under the terms of the agreement.

**Section 1400.4015 Remedies****EMERGENCY**

a) In all of the following cases the Chief Procurement Officer may, with the approval of the Treasurer and subject to the determination of the Chief Legal Counsel under subsection (b), terminate or rescind any contract entered into under this Part in the event:

- 1) The successful bidder or proposer fails to furnish a satisfactory performance bond within the time specified.
- 2) The vendor fails to make delivery at the place or within the time specified in the contract or as ordered.
- 3) Any goods or services provided under the contract are:
  - A) rejected (for not meeting the specification, not conforming to sample, or not being in good condition when delivered) and are not promptly replaced or corrected by the vendor; or
  - B) repeatedly rejected, even though the vendor offers to replace the goods or services promptly.
- 4) There is sufficient evidence to show that the contract was obtained by fraud, collusion, conspiracy, or other unlawful means.

5) The vendor is guilty of misrepresentation in connection with another contract for the sale of goods or services to the State and cannot reasonably be depended upon to fulfill his or her obligations as a responsible vendor under any of his or her contracts with the State.

6) The vendor should be adjudged bankrupt or enters into a general assignment for the benefit of his or her creditors or receivership due to insolvency.

7) The vendor disregards laws and ordinances, rules, or instructions of a contracting officer or acts in violation of any provision of the contract or this Part, or the contract conflicts with any statutory or constitutional provision of the State of Illinois or of the United States.

8) Any other breach of contract or other unlawful act by the vendor occurs.

b) Determination of Right to Terminate or Rescind Contract  
The Chief Legal Counsel shall determine in writing that a violation

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

listed in subsection (a) has occurred prior to the termination or rescission of a contract under this Section.

c) Contracts that are terminated under this Section will be terminated at no cost to the State.

d) Withholding Money to Compensate State for Damages

If a contract is terminated or rescinded under this Section, the State may deduct from whatever is owed the vendor on that or any other contract an amount sufficient to compensate the State of Illinois for any damages suffered by it because of the vendor's breach of contract or other unlawful act on his or her part on which the cancellation is based.

e) Damages

The damages for which the State may be compensated as provided in this Section or by a suit on the vendor's performance bond or by other legal remedy include, but are not limited to, the following:

- 1) the additional cost of goods or services bought elsewhere;
- 2) cost of repeating the procurement procedure;
- 3) any expenses incurred because of delay in receipt of goods or services; and
- 4) any other damages caused by the vendor's breach of contract or unlawful act.

f) Effect of Declaring a Contract Null and Void

In all cases where a contract is voided, the Treasurer's office will endeavor to return those supplies delivered under the contract that have not been used or distributed. No further payments will be made under the contract.

g) In lieu of terminating or rescinding the contract, when appropriate the Chief Procurement Officer may seek to negotiate an alternative resolution that is at least as beneficial to the State as termination or rescission, but the Chief Procurement Officer must not waive the right to terminate or rescind the contract if the situation does not improve.

**Section 1400.4020 Suspension****EMERGENCY**

a) Application

This rule applies to all suspensions of vendors from consideration for award of contracts.

b) The Chief Procurement Officer may suspend a vendor from doing business with the Treasurer's office for all or specific types of supplies or services. A suspension may be issued upon a determination by the Chief Procurement Officer that the vendor violated this Part or failed to conform to specifications or terms of delivery.

c) When the Chief Procurement Officer determines that cause exists for suspension, a notice of suspension, including a copy of the determination, must be sent to the suspended vendor. Bids, proposals and responses will not be solicited from the suspended vendor, and, if



## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

they are received, they will not be considered during the period of suspension.

- d) A contractor may be suspended for any period of time commensurate with the seriousness of the offense. A suspension may be for an indefinite period of time subject to demonstration by the contractor that the suspension is no longer necessary.
- e) The suspension will be effective within seven calendar days after receipt of notice unless an objection is filed. If an objection were filed, the suspension would not become effective until the evaluation of the objection by the Chief Procurement Officer is completed.
- f) The Treasurer's office will not solicit or accept bids, proposals and responses from vendors of the CMS master list of suspensions and debarments during the period of suspension or debarment.

## SUBPART I: PREFERENCES

## Section 1400.4505 Procurement Preferences

## EMERGENCY

The procurement preferences identified in this Subpart must be considered in developing procurement documents, conducting evaluations and drafting contracts.

## Section 1400.4510 Resident Vendor Preference

## EMERGENCY

- a) "Illinois resident vendor" as used in this Section means a person authorized to transact business in this State and having a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract is first advertised or announced, including a foreign corporation duly authorized to transact business in this State that has a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract is first advertised or announced.
- b) An Illinois resident vendor will be allowed a preference as against a non-resident vendor, which is equal to the preference, if any, that the state of the non-resident vendor affords vendors from that state.
- c) An Illinois resident vendor who would perform the services or provide the supplies from another state will be considered a resident of that other state as against an Illinois resident vendor who would perform the services or provide the supplies from Illinois, if that other state has an in-state preference.
- d) If an Illinois resident vendor produces or performs at least 51% of the goods or services in another state, that Illinois resident vendor will be considered a resident of that other state for purposes of application of this reciprocal preference when evaluating the offer of

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

an Illinois resident vendor that produces or performs at least 51% of the goods or services in Illinois.

- e) The Chief Procurement Officer shall maintain a list of states with in-state preference that will be considered in all procurements involving out-of-state vendors. The Chief Procurement Officer may satisfy this requirement by maintaining and updating a list that has been created by CMS.

## Section 1400.4515 Soybean Oil-based Ink

## EMERGENCY

Contracts requiring the procurement of printing services must specify the use of soybean oil-based ink unless the Chief Procurement Officer or Purchasing Officer determines that another type of ink is required to assure high quality and reasonable pricing of the printed product.

## Section 1400.4520 Recycled Materials

## EMERGENCY

When a contract is to be awarded to the lowest responsible offeror, an otherwise qualified offeror who will fulfill that contract through the use of products made of recycled materials may, on a pilot basis or in accordance with a pilot study, be given preference over other offerors unable to do so, if the cost identified in the offer of products made of recycled materials is not more than the cost of products not made of recycled materials.

## Section 1400.4525 Recycled Paper

## EMERGENCY

All paper purchased for use by the Treasurer's office must be recyclable paper unless recyclable paper cannot be used to meet the requirements of the Treasurer's office. The Treasurer's office will determine its paper requirements to allow the use of recyclable paper whenever possible, including without limitation using plain paper rather than colored paper that is not recyclable.

## Section 1400.4530 Correctional Industries

## EMERGENCY

- a) The Chief Procurement Officer will develop a list of the goods or services available from the Department of Corrections and will identify those that must be purchased from Corrections.
- b) Those items that must be purchased from Corrections may not be procured from any other source without the express written authorization of the Chief Procurement Officer.
- c) Procurements may be made from Corrections without seeking competition or giving public notice, if a record of all the purchases made from



## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

Corrections is made part of the procurement file.

### Section 1400.4535 Sheltered Workshops for the Disabled EMERGENCY

- a) Supplies and services may be procured without advertising or calling for offers from any qualified not-for-profit organization for the severely handicapped that:
  - 1) complies with Illinois laws governing private not-for-profit organizations;
  - 2) is certified as a sheltered workshop by the Wage and Hour Division of the United States Department of Labor; and
  - 3) meets the Illinois Department of Human Services just standards for rehabilitation facilities.
- b) Sheltered Workshop List
 

The Chief Procurement Officer must maintain a list of all qualified sheltered workshops. The Chief Procurement Officer may rely on the list developed by CMS to satisfy this responsibility if a copy is maintained in the Treasurer's office and updated as necessary.
- c) Requirements for Selection
 

In order to be selected as the offeror of a good or service, the not-for-profit organization must have indicated an interest in providing the supplies and services, must meet the specifications and needs of the Treasurer's office, and must set a fair market price that has been approved as provided in this Section.
- d) Pricing Approval
  - 1) While notice and competition is not required prior to contracting with a sheltered workshop, prices must be reasonable. Whether a price is reasonable will be determined based upon current market prices, historical prices, prices received by other State agencies for similar goods or services, the policy of this Part to promote procurements from sheltered workshops, and other similarly relevant factors.
  - 2) The Procurement Review Board must approve contracts for reasonableness of price if:
    - A) the good or service would ordinarily be subject to competitive sealed bidding or competitive sealed proposals methods of source selection; or
    - B) the good or service is offered and the sheltered workshop is selected even though not the lowest responsible offeror.
  - 3) The Procurement Review Board approval is not required if:
    - A) the contract does not exceed the bid limit set in Section 1400.2020 for small purchases and no bidding was conducted; or
    - B) the contract is let to the sheltered workshop under a competitive procedure.
  - 4) When the approval of the Procurement Review Board is required, it will be given or denied in an expeditious manner so as not to

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

disrupt procurement activities.

- e) Coordination with CMS

A Purchasing Officer will be assigned the task of coordinating with the committee that is created within CMS under the Illinois Procurement Code to insure that the Treasurer's office is aware of the activities, accomplishments and findings of the committee.

### Section 1400.4540 Gas Mileage EMERGENCY

- a) Specification
 

Contracts for the purchase or lease of new passenger automobiles, other than station wagons, vans and four-wheel drive vehicles, must specify the procurement of a model that, according to the most current mileage study published by the U.S. Environmental Protection Agency, can achieve at least the minimum average fuel economy in miles per gallon imposed upon manufacturers of vehicles under Title V of the Motor Vehicle Information and Cost Savings Act.
- b) Exemptions
 

The Chief Procurement Officer may exempt procurements from the requirement of subsection (a) when there is a demonstrated need, determined in writing and made part of the procurement file, for an automobile that does not meet the minimum average fuel economy standards. The Chief Procurement Officer must not exempt procurements from the requirement of subsection (a) unless it is clear that there is not a compliant vehicle available at a comparable price that will meet the needs of the Treasurer's office.

### Section 1400.4545 Illinois Agricultural Products EMERGENCY

In awarding contracts requiring the procurement of agricultural products, preference may be given to an otherwise qualified offeror who will fulfill the contract through the use of agricultural products grown in Illinois.

### Section 1400.4550 Corn-based Plastics EMERGENCY

In awarding contracts requiring the procurement of plastic products, preference may be given to an otherwise qualified offeror who will fulfill the contract through the use of plastic products made from Illinois corn by-products.

### Section 1400.4555 Vehicles Powered by Agricultural Commodity-based Fuel EMERGENCY

In awarding contracts requiring the procurement of vehicles, preference may be given to an otherwise qualified offeror who will fulfill the contract through the use of vehicles powered by ethanol produced from Illinois corn or biodiesel

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

fuels produced from Illinois soybeans.

**Section 1400.4560 Small Businesses  
EMERGENCY**

- a) **Set-Aside**  
The Chief Procurement Officer may designate as small business set-asides a fair proportion of contracts for the provision of goods and services for award to small businesses in Illinois. A set-aside designation may last indefinitely or for a stated period of time.
- b) **Required Use**  
If the Treasurer's office wishes to make a procurement covered by a set-aside designation, the solicitation must note that responses are limited to those from responsible small businesses. Bids, proposals or responses received from large businesses will be rejected as nonresponsive.
- c) **Withdrawal of Set-Aside**  
If the Chief Procurement Officer determines that acceptance of the best bid, proposal or response will result in the payment of an unreasonable price, the Chief Procurement Officer or Purchasing Officer will reject all bids, proposals or responses and withdraw the designation of small business set-aside for the procurement in question. When a small business set-aside is withdrawn, notification must be published as provided in Section 1400.1505 with an explanation. After withdrawal of the small business set-aside, the procurement will be conducted in accordance with the requirements of this Part.
- d) **Criteria for Small Business**  
Unless the Chief Procurement Officer provides a definition for a particular procurement that reflects industrial characteristics, a small business is one:
  - 1) Independently owned and operated.
  - 2) Not dominant in its field of operations. This means the business does not exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining dominance, consideration must be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.
  - 3) With annual sales for the most recently ended fiscal year no greater than:
    - A) \$7,500,000 for wholesale business;
    - B) \$1,500,000 for retail business.
  - 4) With no more than 250 employees if a manufacturing business.
    - A) A manufacturing business must calculate how many people it employs by determining its average full-time equivalent

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

employment, based on the number of persons employed on a full-time, part-time, temporary or other basis for its most recently ended fiscal year.

- B) If a manufacturing business has been in existence for less than a full fiscal year, its average employment should be calculated for the period that it has been in existence.
- 5) If both a wholesaler and a retailer, the combined wholesale and retail annual sales for its most recently completed fiscal year may not exceed \$9,000,000. The retail component may not exceed \$1,500,000 and the wholesale component may not exceed \$7,500,000.
- 6) When computing the size status of a vendor, the number of employees and annual sales and receipts, as applicable, of the vendor and all affiliates must be included. Concerns are affiliates when either one directly or indirectly control or have the power to control the other, or when a third party or parties control or have the power to control both. In determining whether concerns are independently owned and operated and whether or not affiliation exists, consideration must be given to all appropriate factors, including use of common facilities, common ownership and management and contractual arrangements. However, a franchise relationship does not affect small business status if the franchise has the right to profit commensurate with ownership and bears the risk of loss or failure.
- e) **Reliance on the Determination of CMS**  
The Treasurer's office may defer to the determination by CMS that a business is a small business.
- f) **Small Business Specialist**  
The Small Business Specialist for the Treasurer's office shall assist small businesses seeking to provide goods or services to the Treasurer's office and is specifically responsible for the following:
  - 1) Compiling and maintaining a comprehensive bidders list of small businesses and cooperating with the Federal Small Business Administration in locating potential sources for various products or services. The Small Business Specialist may rely on the bidders list developed by CMS to satisfy this responsibility if a copy is maintained in the Treasurer's office and updated as necessary.
  - 2) Assisting small businesses in complying with the procedures for bidding, proposing or responding to solicitations of the Treasurer's office.
  - 3) Assisting in the development of small business set-asides if determined by the Chief Procurement Officer to be in the State's best interest.
  - 4) Making recommendations to the Chief Procurement Officer for the simplification of specifications and terms in order to increase the opportunities for small business participation.
  - 5) Assisting in investigations by the Treasurer's office to determine the responsibility of any offeror on any small business

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

## set-asides.

- g) Small business annual report
- The Chief Procurement Officer shall annually before December 1 report in writing to the General Assembly concerning the awarding of contracts to small businesses. The report will include the total value of awards made in the preceding fiscal year under the designation of small business set-aside. The requirement for reporting to the General Assembly will be satisfied by filing copies of the report as required by Section 3.1 of the General Assembly Organization Act [25 ILCS 5/3.1].

**Section 1400.4565 Preferences for Veterans, Minorities, Females, and Persons with Disabilities**  
**EMERGENCY**

This Part is subject to the applicable provisions of the Veterans Preference Act [330 ILCS 55] and the Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575]. The Chief Procurement Officer shall do whatever is reasonably necessary to enable veterans, minorities, females, and persons with disabilities to participate in the procurement process. The Chief Procurement Officer may rely on the determination of CMS that a person or business qualifies for a preference under these Acts.

## SUBPART J: ETHICS

**Section 1400.5005 Purpose**  
**EMERGENCY**

It is the express duty of Chief Procurement Officer, Purchasing Officers and their designees to maximize the value of the expenditure of public moneys in procuring goods, services, and contracts for the Treasurer's office and to act in a manner that maintains the integrity and public trust of State government. In discharging this duty, they are charged to use all available information, reasonable efforts, and reasonable actions to protect, safeguard, and maintain the procurement process of the Treasurer's office.

**Section 1400.5010 Bribery**  
**EMERGENCY**

- a) Prohibition
- No person or business will be awarded a contract or subcontract under this Part who:
- 1) has been convicted under the laws of Illinois or any other state of bribery or attempting to bribe an officer or employee of the State of Illinois or any other state in the officer's or employee's official capacity; or
  - 2) has made an admission of guilt of that conduct that is a matter of record but has not been prosecuted for that conduct.

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

## b) Businesses

No business will be barred from contracting with any unit of State or local government as a result of a conviction under this Section of any employee or agent of the business if the employee or agent is no longer employed by the business and:

- 1) the business has been finally adjudicated not guilty; or
- 2) the business demonstrates to the governmental entity with which it seeks to contract, and that entity finds, that the commission of the offense was not authorized, requested, commanded, or performed by a director, officer, or high managerial agent on behalf of the business as provided in Section 5-4(a)(2) of the Criminal Code of 1961 [720 ILCS 5/5-4(a)(2)].

## c) Conduct on Behalf of Business

For purposes of this Section, when an official, agent, or employee of a business committed the bribery or attempted bribery on behalf of the business and in accordance with the direction or authorization of a responsible official of the business, the business will be chargeable with the conduct.

## d) Certification

Every offer submitted to and contract executed by the State must contain a certification by the vendor that the vendor is not barred from being awarded a contract or subcontract under this Section.

**Section 1400.5015 Felons**  
**EMERGENCY**

Unless otherwise provided, no person or business convicted of a felony may do business with the Treasurer's office from the date of conviction until 5 years after the date of completion of the sentence for that felony, unless no person held responsible by a prosecutorial office for the facts upon which the conviction was based continues to have any involvement with the business.

**Section 1400.5020 Conflicts of Interest**  
**EMERGENCY**

## a) Prohibitions

- 1) The Treasurer and all employees of the Treasurer's office who receive compensation for the employment in excess of 60% of the salary of the Governor of the State of Illinois and the spouses and minor children of those persons may not have or acquire any contract, or any direct pecuniary interest in any contract, that will be wholly or partially satisfied by the payment of funds appropriated by the General Assembly of the State of Illinois.
- 2) No firm, partnership, association, or corporation in which any person described in subsection (a)(1) is entitled to receive:
  - A) more than 7 1/2% of the total distributable income; or
  - B) an amount in excess of the salary of the Governor, may have or acquire any contract or direct pecuniary interest in



## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

any contract that will be wholly or partially satisfied by the payment of funds appropriated by the General Assembly of the State of Illinois.

- 3) No firm, partnership, association, or corporation in which any person described in subsection (a)(1) together with his or her spouse or minor children is entitled to receive:

- A) more than 15%, in the aggregate, of the total distributable income; or
- B) an amount in excess of two times the salary of the Governor, may have or acquire any contract or direct pecuniary interest in any contract that will be wholly or partially satisfied by the payment of funds appropriated by the General Assembly of the State of Illinois.

- b) An individual has a direct pecuniary interest in a contract when the individual is owed any payment in conjunction with performance of a contract, including finders' fees and commission payments.

- c) Distributable income means the income to a company after payment of all expenses, including employee salary and bonus, and retained earnings, and which remaining amount is actually distributed to those entitled to receive a share of the income.

- d) Applicability

This Section does not apply to or affect the validity of:

- 1) any bond or other security previously offered for sale, to be offered for sale or sold by or for the State of Illinois;
- 2) any contract made between the State and a person described in subsection (a)(1) that was in existence before the election or employment of the person if the contract can be completed within 365 days after the person takes office; otherwise, it is voidable by the State;
- 3) payments made for a public aid recipient;
- 4) any contract for personal services as a teacher or school administrator between the Treasurer, or an employee of the Treasurer's office, and a school district, public community college district, or the University of Illinois, Southern Illinois University, Illinois State University, Eastern Illinois University, Northern Illinois University, Western Illinois University, Chicago State University, Governor's State University, or Northeastern Illinois University;
- 5) any contract for personal services of a wholly ministerial character, including but not limited to services as a laborer, clerk, typist, stenographer, page, bookkeeper, receptionist, or telephone switchboard operator, made by a spouse or minor child of the Treasurer or an employee of the Treasurer's office;
- 6) payments made to the Treasurer or an employee of the Treasurer's office for or on behalf of a child or family served by the Department of Children and Family Services;
- 7) contracts that are competitively procured as provided in this Part between the Treasurer's office and licensed professionals.

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

- e) Exemptions

The Treasurer, with the approval of the Chief Procurement Officer, may exempt named individuals from the prohibitions in this Section when, in his or her judgement, the public interest in having the individual in the service of the State outweighs the public policy evidenced in this Section. An exemption is effective only when it is filed with the Secretary of State and the Comptroller and includes a statement that includes the name of the individual, all pertinent facts that would make this Section applicable, the reason for the exemption and a declaration that the individual is exempted from this Section. Notice of each exemption must be published as provided in Section 1400.1505 and made part of the procurement file.

#### Section 1400.5025 Negotiations for Future Employment EMERGENCY

- a) No person employed in or on a continual contractual relationship with the Treasurer's office may participate in contract negotiations on behalf of the Treasurer's office with any firm, partnership, association, or corporation with whom that person has a contract for future employment or is negotiating concerning possible future employment.

- b) An individual who performs services under a contract and who meets the requirements of an "employee" or "contractual employee" as opposed to an "independent contractor" is in a "continual contractual relationship" from the effective date of the contract until the time the contract is terminated.

- c) "Independent contractors", as opposed to "employees" or "contractual employees", are in a "continual contractual relationship" if the contract term is indefinite, is automatically renewed, is renewable at the individual's option, is renewable unless the Treasurer's office must act to terminate, or has a definite term of at least three months.

#### Section 1400.5030 Revolving Door EMERGENCY

The Chief Procurement Officer and the Purchasing Officers may not engage in any procurement activity relating to the Treasurer's office for two years after terminating their position as Chief Procurement Officer or Purchasing Officer.

#### Section 1400.5035 Disclosure of Financial Interests and Potential Conflicts of Interest EMERGENCY

- a) All offers from responsive offerors with an annual value of more than \$10,000 must be accompanied by disclosure of the financial interests of the offeror. The financial disclosure of each successful offeror

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

b) must be made part of the procurement.

Disclosure by the offerors must include any ownership or distributive income share that is in excess of 5%, or an amount greater than 60% of the annual salary of the Governor, of the offering entity or its parent entity, whichever is less, unless the offeror is a publicly traded entity subject to Federal 10k reporting, in which case it may submit its 10k disclosure in place of the prescribed disclosure. The form of disclosure will be prescribed by the Chief Procurement Officer and must include at least the names, addresses, and dollar or proportionate share of ownership of each person identified in this Section, their instrument of ownership or beneficial relationship, and notice of any potential conflict of interest resulting from the current ownership or beneficial relationship of each person identified in this Section having in addition any of the following relationships:

- 1) State employment, currently or in the previous 3 years, including contractual employment services.
- 2) State employment of spouse, father, mother, son, or daughter, including contractual employment for services in the previous 2 years.
- 3) Elective status: the holding of elective office of the State of Illinois, the government of the United States, any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois currently or in the previous 3 years.
- 4) Relationship to anyone holding elective offices currently or in the previous 2 years: spouse, father, mother, son, or daughter.
- 5) Appointive office: the holding of any appointive government office of the State of Illinois, the United States of America, or any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois, which office entitles the holder to compensation in excess of expenses incurred in the discharge of that office currently or in the previous 3 years.
- 6) Relationship to anyone holding appointive office currently or in the previous 2 years: spouse, father, mother, son, or daughter.
- 7) Employment, currently or in the previous 3 years, as or by any registered lobbyist of the State government.
- 8) Relationship to anyone who is or was a registered lobbyist in the previous 2 years: spouse, father, mother, son, or daughter.
- 9) Compensated employment, currently or in the previous 3 years, by any registered election or re-election committee registered with the Secretary of State or any county clerk in the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections.
- 10) Relationship to anyone (spouse, father, mother, son, or daughter) who is or was a compensated employee in the last 2 years of any registered election or re-election committee registered with the Secretary of State or any county clerk in the State of Illinois,

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

or any political action committee registered with either the Secretary of State or the Federal Board of Elections.

- c) The disclosure in subsection (b) is not intended to prohibit or prevent any contract. The disclosure is meant to fully and publicly disclose any potential conflict to the Chief Procurement Officer, Purchasing Officers, their designees, and executive officers so they may adequately discharge their duty to protect the State.
- d) In the case of any contract for personal services in excess of \$50,000; any contract competitively procured in excess of \$250,000; any other contract in excess of \$50,000; when a potential for a conflict of interest is identified, discovered, or reasonably suspected, the Chief of Staff shall review and comment on it in writing. The Chief of Staff shall provide his comment to the Chief Procurement Officer who must determine in writing whether to void or allow the contract, bid, proposal or response weighing the best interest of the State of Illinois. The comment and determination must be part of the procurement file.
- e) These thresholds and disclosure do not relieve the Chief Procurement Officer, Purchasing Officers, or their designees from reasonable care and diligence for any contract, bid, proposal or response. The Chief Procurement Officer, Purchasing Officers, or their designees shall use any reasonably known and publicly available information to discover any undisclosed potential conflict of interest and act to protect the best interest of the State of Illinois.
- f) Inadvertent or accidental failure to make any disclosure required by this Section will render the contract, bid, proposal, response or relationship voidable by the Chief Procurement Officer if he or she deems it in the best interest of the State of Illinois and, at his or her discretion, may be cause for barring from future contracts, bids, proposals, responses or relationships with the State for a period of up to 2 years.
- g) Intentional, willful or material failure to make any disclosure required by this Section will render the contract, bid, proposal, response or relationship voidable by the Chief Procurement Officer if he or she deems it to be in the best interest of the State of Illinois and will result in suspension from future contracts, bids, proposals, responses or relationships for a period of not less than 2 years and not more than 10 years. Reinstatement after 2 years and before 10 years must be reviewed and commented on in writing by the Chief of Staff. The Chief of Staff must provide the review to the Chief Procurement Officer who must rule in writing whether and when to reinstate. The comment and determination must be part of the procurement file.
- h) In addition, all disclosures must note any other current or pending contracts, leases, bids, proposals, responses or other ongoing procurement relationships the bidding, proposing, or responding entity has with any other unit of State government and must clearly identify the unit and the contract, lease, bid, proposal, response or other



## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

relationship.

### Section 1400.5040 Reporting Anticompetitive Practices EMERGENCY

When, for any reason, any vendor, bidder, proposer, respondent or employee of the Treasurer's office, including the Chief Procurement Officer and Purchasing Officers suspects collusion or other anticompetitive practice among any bidders, proposers, respondents or employees of the Treasurer's office, a notice of the relevant facts must be transmitted to the Attorney General and the Chief Procurement Officer:

### Section 1400.5045 Confidentiality EMERGENCY

The Chief Procurement Officer, Purchasing Officers and their designees are subject to immediate dismissal and may be subject to criminal prosecution for willfully using or allowing the use of specifications, procurement documents or proprietary information to compromise the fairness or integrity of the procurement or contract process.

### Section 1400.5050 Insider Information EMERGENCY

It is unlawful for the Treasurer or any employee of the Treasurer's office to knowingly use confidential information available only by virtue of that office or employment for actual or anticipated gain for themselves or another person.

### Section 1400.5055 Additional Provisions EMERGENCY

This Part is subject to applicable provisions of the following Acts:

- a) Article 33E of the Criminal Code of 1961 [720 ILCS 5/Art. 33E];
- b) the Illinois Human Rights Act [775 ILCS 5];
- c) the Discriminatory Club Act [775 ILCS 25];
- d) the Illinois Governmental Ethics Act [5 ILCS 420];
- e) the State Prompt Payment Act [30 ILCS 540];
- f) the Public Officer Prohibited Activities Act [50 ILCS 105]; and
- g) the Drug Free Workplace Act [30 ILCS 580].

### Section 1400.5060 Other Violations EMERGENCY

Any employee of the Treasurer's office, including the Chief Procurement Officer and Purchasing Officers, who willfully violates or allows the violation of this Part is subject to immediate dismissal.

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

### Section 1400.5065 Supply Inventory EMERGENCY

The Treasurer's office should inventory or stock no more equipment, supplies, commodities, articles, and other items than are reasonably necessary for the efficient functioning of the Treasurer's office. The Treasurer's office must seek to have no more than a 12-month supply of any equipment, supplies, commodities, or other items, unless there is a justifiable reason for doing so.

## SUBPART K: CONCESSIONS

### Section 1400.5505 Concessions EMERGENCY

- a) All Concessions, including the assignment, license, sale, or transfer of interests in or rights to discoveries, inventions, patents, or copyrightable works, may be entered into by the Treasurer's office, if the concession is reduced to writing and awarded by one of the procurement methods described in this Part, except that the contract will be awarded to the highest and best offeror. The duration and terms of concessions and leases of State property must be in accordance with this Part.
- b) Proposed concessions or leases of State property under this Part must be coordinated with CMS to ensure compliance with the State Property Control Act and rules implementing that Act.

## SUBPART L: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

### Section 1400.6005 Severability EMERGENCY

If any provision of this Part or any application thereof is held invalid, the invalidity will not affect other provisions or applications of this Part that can be given effect without the invalid provision or application.

### Section 1400.6010 Government Furnished Property EMERGENCY

If the Treasurer's office provides any property to the vendor in furtherance of the contract, the property will remain the property of the State but may be consumed by the vendor if necessary to complete the contract. The vendor shall issue a receipt for the property and will be responsible for its safekeeping and return of unused property to the State.

### Section 1400.6015 Inspections EMERGENCY

- a) Inspection of Plant or Site



## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

The State may enter a contractor's or subcontractor's plant or place of business to:

- 1) inspect supplies or services for acceptance by the State under the terms of a contract;
- 2) audit the books and records of any contractor or subcontractor under Section 1400.4020(d);
- 3) investigate an action to suspend a person from consideration for award of contracts in accordance with Section 1400.4020;
- 4) determine whether the standards of responsibility have been met or are capable of being met; and
- 5) determine if the contract is being performed in accordance with its terms.

b) Inspection and Testing of Supplies and Services

- 1) Solicitation and Contractual Provisions. Treasurer's office contracts may provide that the Treasurer's office may inspect supplies and services at the contractor's or subcontractor's facility and perform tests to determine whether they conform to solicitation requirements, or, after award, to contract requirements, and are therefore acceptable. The inspections and tests are conducted in accordance with the terms of the solicitation and contract.

- 2) Procedures for Trial Use and Testing. The Chief Procurement Officer may establish operational procedures governing the testing and trial use of equipment, material, and other supplies by the Treasurer's office, and the application of resulting information and data to specifications or procurements.

c) Conduct of Inspections

- 1) Inspectors. Inspections or tests are performed so as not to unduly delay the work of the contractor or subcontractor. No inspector other than the Chief Procurement Officer may change any provision of the specifications or the contract without written authorization of the Chief Procurement Officer. The presence or absence of an inspector does not relieve the contractor or subcontractor from any requirements of the contract.
- 2) Location. When an inspection is made in the plant or place of business of a contractor or subcontractor, the contractor or subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.
- 3) Time. Inspection or testing of supplies and services performed at the plant or place of business of any contractor or subcontractor must be performed at reasonable times.

Section 1400.6020 No Waiver of Sovereign Immunity  
EMERGENCY

Nothing in this Part will be deemed to be a waiver of sovereign immunity.

## TREASURER'S OFFICE

## NOTICE OF EMERGENCY RULE

Section 1400.6025 Postage Stamps  
EMERGENCY

All postage stamps purchased from State funds must be perforated for identification purposes.

Section 1400.6030 Printing  
EMERGENCY

All books, pamphlets, documents, and reports published through or by the Treasurer's office must have printed thereon "Printed by the authority of the State of Illinois", the date of each publication, the number of copies printed, and the printing order number. No publication may have written, stamped, printed, or attached to it "Compliments of . . . (naming a person)" or any words of similar import.

Section 1400.6035 Annual Reports  
EMERGENCY

Every printed annual report produced by the Treasurer's office must bear a statement indicating whether it was printed by the State of Illinois or by contract and indicating the printing costs per copy and the number of copies printed. For every annual report prepared, a report must be prepared detailing the quantity of annual reports printed, the total cost, the cost per copy, and the cost per page of the annual report. The report will be submitted to the General Assembly on the fourth Wednesday of January in each year that a report is produced by the Treasurer's office and made part of the procurement file.

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS

- 1) Heading of the Part: Services Delivered by the Department of Children and Family Services

2) Code Citation: 89 Ill. Adm. Code 302

- 3) Register Citation to Notice of Proposed Amendments: 22 Ill. Reg. 7424, May 1, 1998

- 4) Date, Time and Location of Public Hearing:

Northeastern Illinois University  
Center for Inner City Studies  
700 East George H. Clements Blvd.  
Chicago, Illinois 60653  
4:00 p.m., July 22, 1998

- 5) Other Pertinent Information: Persons needing translation or interpretation services to enable their participation in this public hearing should request such services no later than July 17, 1998 by calling (217) 524-1983 or TTY: 524-3715. The public comment period on this proposed rulemaking has been extended through July 31, 1998. Comments may be submitted to:

Jerry B. Crabtree  
Office of Rules and Procedures  
Department of Children and Family Services  
406 E. Monroe St., Station #65  
Springfield, Illinois 62701

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PUBLIC HEARING ON PROPOSED RULES

- 1) Heading of the Part: Permanency Planning

2) Code Citation: 89 Ill. Adm. Code 315

- 3) Register Citation to Notice of Proposed Rules: 22 Ill. Reg. 7770, May 8, 1998

- 4) Date, Time and Location of Public Hearing:

Northeastern Illinois University  
Center for Inner City Studies  
700 East George H. Clements Blvd.  
Chicago, Illinois 60653

4:00 p.m., July 22, 1998

- 5) Other Pertinent Information: Persons needing translation or interpretation services to enable their participation in this public hearing should request such services no later than July 17, 1998 by calling (217) 524-1983 or TTY: 524-3715. The public comment period on this proposed rulemaking has been extended through July 31, 1998. Comments may be submitted to:

Jerry B. Crabtree  
Office of Rules and Procedures  
Department of Children and Family Services  
406 E. Monroe St., Station #65  
Springfield, Illinois 62701

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS

1) Heading of the Part: Confidentiality of Personal Information of Persons Served by the Department of Children and Family Services

2) Code Citation: 89 Ill. Adm. Code 431

3) Register Citation to Notice of Proposed Amendments: 22 Ill. Reg. 7759, May 8, 1998

4) Date, Time and Location of Public Hearing:

Northeastern Illinois University  
Center for Inner City Studies  
700 East George H. Clements Blvd.  
Chicago, Illinois 60653

4:00 p.m., July 22, 1998

5) Other Pertinent Information: Persons needing translation or interpretation services to enable their participation in this public hearing should request such services no later than July 17, 1998 by calling (217) 524-1983 or TTY: 524-3715. The public comment period on this proposed rulemaking has been extended through July 31, 1998. Comments may be submitted to:

Jerry B. Crabtree  
Office of Rules and Procedures  
Department of Children and Family Services  
406 E. Monroe St., Station #65  
Springfield, Illinois 62701

## STATE BOARD OF EDUCATION

## JULY 1998 REGULATORY AGENDA

a) Part: Determining Special Education Per Capita Tuition Charge; 23 Ill. Adm. Code 130.

1) Rulemaking:

A) Description:

Part 130 will be amended to include additional costs that are directly attributable to the provision of special education and to respond to several technical issues that have arisen in the course of implementing the rules as currently written.

B) Statutory Authority: 105 ILCS 5/14-7.01

C) Scheduled meeting/hearing date: To be announced

D) Date agency anticipates First Notice: November 1, 1998

E) Effect on small businesses, small municipalities, or not-for-profit corporations: None

F) Agency contact person for information:

Name: Sally Vogl  
Agency Rules Coordinator  
Address: Illinois State Board of Education  
100 North First Street  
Springfield, Illinois 62777  
Telephone: (217) 782-3950

G) Related rulemakings and other pertinent information:

b) Part: Special Education; 23 Ill. Adm. Code 226

1) Rulemaking:

A) Description:

Comprehensive changes will be needed in Part 226 in response to changes in federal special education law and regulations, as well as to incorporate the new provisions of Section 14-8.02b of the School Code put in place by P.A. 90-566.

B) Statutory Authority: 105 ILCS 5/2-3.6

C) Scheduled meeting/hearing date: To be announced



## STATE BOARD OF EDUCATION

## JULY 1998 REGULATORY AGENDA

- D) Date agency anticipates First Notice: December 1, 1998
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency contact person for information:
- Name: Sally Vogl  
Agency Rules Coordinator  
Address: Illinois State Board of Education  
100 North First Street  
Springfield, Illinois 62777  
Telephone: (217) 782-3950

G) Related rulemakings and other pertinent information:

- c) Part: Student Records; 23 Ill. Adm. Code 375

1) Rulemaking:A) Description:

Portions of Part 375 are affected by the provisions of P.A. 90-566 regarding the placement of students' state assessment scores into their temporary records and the list of parties to whom students' records may be released.

- B) Statutory Authority: 105 ILCS 10 and 105 ILCS 5/2-3.13a

- C) Scheduled meeting/hearing date: To be announced

- D) Date agency anticipates First Notice: January 15, 1999

- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None

F) Agency contact person for information:

Name: Sally Vogl  
Agency Rules Coordinator  
Address: Illinois State Board of Education  
100 North First Street  
Springfield, Illinois 62777  
Telephone: (217) 782-3950

- G) Related rulemakings and other pertinent information:

## ENVIRONMENTAL PROTECTION AGENCY

## JULY 1998 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Annual Emissions Report (35 Ill. Adm. Code 254)

1) Rulemaking:

- A) Description: The proposed amendments to the annual emissions report rules are necessary to implement the Emissions Reduction Market System (ERMS) rule (R97-13) that became a final Pollution Control Board rule in November 1997. Revisions are primarily needed to address the seasonal reporting needs of the ERMS.

- B) Statutory Authority: 415 ILCS 5/4(b)

- C) Scheduled meeting/hearing dates: Fall 1998.

- D) Date Agency anticipates First Notice: October 1998.

- E) Effect on small businesses, small municipalities or not-for-profit corporations: The proposed amendments to the rule will apply to major sources of volatile organic material emissions in the Chicago ozone non-attainment area. This may include a minimal number of small businesses. The proposed amendments are procedural reporting requirements and impose no new obligations on sources beyond those that are part of the ERMS rule.

F) Agency contact person for information:

Name: Bonnie Sawyer  
Address: Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276  
Telephone: 217/782-5544

- G) Related rulemaking and other pertinent information: None.

- b) Part(s) (Heading and Code Citation): Procedures to Be Followed in the Performance of Inspections of Motor Vehicle Emissions (35 Ill. Adm. Code 276)

1) Rulemaking: No docket presently reserved.

- A) Description: The Illinois Environmental Protection Agency (Agency) is currently developing amendments to the vehicle inspection and maintenance regulations pursuant to Section 13B-20 of the Vehicle Emissions Inspection Law of 1995 [625 ILCS 5/13B-20]. This rulemaking would both add and modify

## ENVIRONMENTAL PROTECTION AGENCY

## JULY 1998 REGULATORY AGENDA

emissions testing procedures and requirements to be used in the Enhanced Inspection and Maintenance (Enhanced I/M) program required to be implemented by the federal Clean Air Act [42 USC 7401 et seq.] and the Vehicle Emissions Inspection Law of 1995 [625 ILCS 5/13B-1 et seq.]. Specific elements of the rulemaking will include: modifications and additions to test equipment specifications and maintenance and calibration requirements; additions and modifications of test procedures; modification of waiver requirements; and addition of economic hardship extension procedures.

B) Statutory Authority: 625 ILCS 5/13B-20 and 415 ILCS 5/27 & 28.

C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Agency anticipates holding one informational meeting in Summer 1998.

D) Date Agency anticipates First Notice: Summer 1998.

E) Effect on small businesses, small municipalities or not-for-profit corporations: The Agency presently anticipates that this proceeding may affect small businesses, small municipalities, and non-for-profit corporations to the extent they own or operate motor vehicles that would be subject to the amended regulations. The Agency presently anticipates that the affect of these proposed amendments would be positive, since the amendments will allow for the initiation of a program which will significantly contribute to the improvement of air quality in the affected program areas.

F) Agency contact person for information:

Name: Christopher Demeroukas, Attorney  
Address: Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276  
Telephone: 217-782-5544

G) Related rulemaking and other pertinent information: No other known proceeding would impact the general provisions of Part 276.

c) Part(s) (Heading and Code Citation): Procedures for Emission Test Averaging (35 Ill. Adm. Code 283)

## ENVIRONMENTAL PROTECTION AGENCY

## JULY 1998 REGULATORY AGENDA

1) Rulemaking: No docket presently reserved.

A) Description: The Illinois Environmental Protection Agency ("Illinois EPA") is developing regulations that provide for the averaging of emissions test results. These regulations would establish an averaging procedure for determining whether an emission unit that is subject to state testing requirements is in compliance with an applicable standard or limitation.

B) Statutory Authority: 415 ILCS 5/4(b), 5/4(d) and 5/4(h).

C) Scheduled meeting/hearing dates: The Illinois EPA anticipates scheduling a public hearing in the Summer of 1998.

D) Date Agency anticipates First Notice: September 1998.

E) Effect on small businesses, small municipalities or not for profit corporations: These proposed regulations will affect a small business, small municipality, or not-for-profit corporations that either own or operate any emission source that is subject to state emission testing requirements.

F) Agency contact person for information:

Name: Terry Sweitzer, Manager  
Address: Illinois Environmental Protection Agency  
Air Monitoring Section  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276  
Telephone: (217)782-5811

d) Part(s) (Heading and Code Citation): Procedures for the Determination of Ammonia Nitrogen Water Quality Based Effluent Limits For Dischargers to General Use Waters (35 Ill. Adm. Code 355).

1) Rulemaking:

A) Description: These rules establish the criteria to be used by the Illinois Environmental Protection Agency in establishing effluent limits necessary to ensure compliance with water quality standards for individual dischargers, pursuant to 35 Ill. Adm. Code 304.105.

B) Statutory Authority: 415 ILCS 5/39(b).

C) Scheduled meeting/hearing dates: Not yet determined.

## ENVIRONMENTAL PROTECTION AGENCY

## JULY 1998 REGULATORY AGENDA

- D) Date Agency anticipates First Notice: July 1, 1998
- E) Effect on small businesses, small municipalities or not for profit corporations: Yes
- F) Agency contact person for information:  
 Name: Toby Frevert  
 Address: Bureau of Water  
 Illinois Environmental Protection Agency  
 1021 North Grand Avenue East  
 P.O. Box 19276  
 Springfield, IL 62794-9276  
 Telephone: (217) 782-1654
- G) Related rulemakings and other pertinent information: Not yet determined.
- e) Part(s) (Heading and Code Citation): Design Criteria for Sludge Application on Land (35 Ill. Adm. Code 391).

1) Rulemaking:

- A) Description: Amendments to Illinois design criteria for sludge application on land to update the State program and incorporate new federal requirements.

B) Statutory Authority: 415 ILCS 5/4.

C) Scheduled meeting/hearing dates: No hearings have been scheduled.

D) Date agency anticipates First Notice: Fall 1998

E) Effect on small businesses, small municipalities or not for profit corporations: These amendments impose new requirements for any small business, small municipality or not for profit corporation that generates, uses or distributes sludge for application on land.

F) Agency contact person for information:

Name: Alan Keller  
 Address: Illinois Environmental Protection Agency  
 1021 North Grand Avenue East  
 P.O. Box 19276  
 Springfield, IL 62794-9276  
 Telephone: (217) 782-0610

G) Related rulemaking and other pertinent information: There

## ENVIRONMENTAL PROTECTION AGENCY

## JULY 1998 REGULATORY AGENDA

- are no related rulemakings.
- f) Part(s) (Heading and Code Citation): System Capacity Regulations (35 Ill. Adm. Code Subtitle F).

1) Rulemaking:

A) Description: The Illinois Environmental Protection Agency (IEPA) is preparing a rulemaking proposal to amend 35 Ill. Adm. Code Subpart F (Subtitle F) to incorporate technical, financial, and managerial requirements for new public water supplies (PWS). The proposed amendments to the IEPA's rules in Subtitle F are required by the 1996 amendments to the federal Safe Drinking Water Act (SDWA). On May 22, 1998, the Illinois General Assembly passed SB 545 which, inter alia, amends Sections 15 and 18 of the Environmental Protection Act (Act) [415 ILCS 5/15 and 5/18] to require that new PWS have the technical, financial, and managerial capacity to meet federal and State drinking water regulations. The Governor is expected to sign this bill into law by August 23, 1998.

B) Statutory Authority: SB 545 will amend Sections 15 and 18 of Act [415 ILCS 5/15 and 5/18] upon enactment by the Governor.

C) Scheduled meeting/hearing dates: Not yet scheduled.

D) Date agency anticipates First Notice: December 15, 1998.

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking may affect new small businesses, new small municipalities, and new not-for-profit corporations in Illinois to the extent the affected entities own or operate a "public water supply", as defined by Section 3.28 of the Act, i.e., it has at least fifteen service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year, or it is assisting a public water supply to demonstrate compliance.

F) Agency contact person for information:

Name: Stephen C. Ewart, Deputy Counsel  
 Address: Illinois Environmental Protection Agency  
 Division of Legal Counsel  
 1021 North Grand Avenue East  
 P.O. Box 19276  
 Springfield, IL 62794-9276



## ENVIRONMENTAL PROTECTION AGENCY

## JULY 1998 REGULATORY AGENDA

Telephone: (217) 782-5544

- G) Related rulemaking and other pertinent information: The IEPA is preparing a rulemaking proposal for filing before the Board to amend 35 Ill. Adm. Code Subpart F to incorporate technical, financial, and managerial requirements for new public water supplies into the Board's Subtitle F rules.

- g) Part(s) (Heading and Code Citation): Technical Policy Statements (35 Ill. Adm. Code 651 through 654).

1) Rulemaking:

- A) Description: The amendments to these Illinois EPA rules will update definitions and explanations of administrative procedures and provide current information to owners, operators and official custodians of public water supplies. More recent design and operational criteria will be incorporated to provide information necessary for the design, operation and maintenance of public water supplies and to facilitate the permitting process.

- B) Statutory Authority: 415 ILCS 5/14 through 5/19.

- C) Scheduled meeting/hearing dates: Not yet scheduled.

- D) Date Agency anticipates First Notice: December 15, 1998.

- E) Effect on small businesses, small municipalities or not for profit corporations: These amendments will generally benefit small businesses, small municipalities and not for profit entities by clarifying the requirements for operations and permits. There may be some additional reporting requirements.

- F) Agency contact person for information:

Name: Charlie Bell  
Address: Illinois Environmental Protection Agency  
Field Operations Section  
Division of Public Water Supplies  
Bureau of Water  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276  
Telephone: (217) 782-8653

- G) Related rulemaking and other pertinent information: None.

## ENVIRONMENTAL PROTECTION AGENCY

## JULY 1998 REGULATORY AGENDA

- h) Part(s) (Heading and Code Citation): Operator Certification (35 Ill. Adm. Code 680).

1) Rulemaking:

- A) Description: The Illinois Environmental Protection Agency (IEPA) is preparing a rulemaking proposal to amend 35 Ill. Adm. Code 680 to incorporate operator certification requirements for public water supplies (PWS). The proposed amendments are required by the 1996 amendments to the federal Safe Drinking Water Act (SDWA).

- B) Statutory Authority: 415 ILCS 45/10

- C) Scheduled meeting/hearing dates: Not yet scheduled.

- D) Date Agency anticipates First Notice: September 30, 1998.

- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking may affect small businesses, small municipalities, and not-for-profit corporations in Illinois by requiring additional minimum standards for certification and recertification of operators.

- F) Agency contact person for information:

Name: Barb Lieberman  
Address: Illinois Environmental Protection Agency  
Division of Public Water Supplies  
Bureau of Water  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276  
Telephone: (217) 785-0561

- G) Related rulemaking and other pertinent information: None.

- i) Part(s) (Heading and Code Citation): Operation of the Hazardous Waste Fee System (35 Ill. Adm. Code 855).

1) Rulemaking: No docket presently reserved.

- A) Description: The proposed amendments will delete obsolete language in two sections, which is necessitated by amendments to 35 Ill. Adm. Code 809.

- B) Statutory Authority: 415 ILCS 5/21, 5/22.01, and 5/22.2.

## ENVIRONMENTAL PROTECTION AGENCY

## JULY 1998 REGULATORY AGENDA

- C) Scheduled meeting/hearing dates: None at this time.
- D) Date Agency anticipates First Notice: Fall 1998.
- E) Effect on small businesses, small municipalities or not for profit corporations: This rule will affect those entities that currently use a bill of lading when transporting hazardous.
- F) Agency contact person for information:  
 Name: Kimberly A. Robinson, Assistant Counsel  
 Address: Illinois Environmental Protection Agency  
 Division of Legal Counsel  
 1021 North Grand Avenue East  
 P.O. Box 19276  
 Springfield, IL 62794-9276  
 Telephone: (217) 782-5544
- G) Related rulemaking and other pertinent information: These amendments were necessitated by amendments to 35 Ill. Adm. Code 809.
- j) Part(s) (Heading and Code Citation): Procedures for the Operation of the Fee System for Processing Inquiry Requests for Agency Records (35 Ill. Adm. Code 877).
- 1) Rulemaking: No docket presently reserved.
- A) Description: The proposed rules will establish a system for processing inquiry requests for Agency records made by subsequent property owners in order to deflect liability for releases or threat of releases of hazardous substances or pesticides.
- B) Statutory Authority: 415 ILCS 5/22.2(j)(6)(E)(v)(IV).
- C) Scheduled meeting/hearing dates: None at this time.
- D) Date Agency anticipates First Notice: Winter 1998.
- E) Effect on small businesses, small municipalities or not for profit corporations: This rule could potentially affect any subsequent property owner doing an inquiry request for Agency records.
- F) Agency contact person for information:

## ENVIRONMENTAL PROTECTION AGENCY

## JULY 1998 REGULATORY AGENDA

- Name: Kimberly A. Robinson, Assistant Counsel  
 Address: Illinois Environmental Protection Agency  
 Division of Legal Counsel  
 1021 North Grand Avenue East  
 P.O. Box 19276  
 Springfield, IL 62794-9276  
 Telephone: (217) 782-5544
- G) Related rulemaking and other pertinent information: There are no related rulemakings.

ILLINOIS DEPARTMENT OF FINANCIAL INSTITUTIONS

JULY 1998 REGULATORY AGENDA

a) Part(s) (Heading and Code Citation): Uniform Disposition of Unclaimed Property Act, 38 Ill. Adm. Code 180

1) Rulemaking:

- A) Description: Further defines trust property and sets forth the time of abandonment.
- B) Statutory Authority: (765 ILCS 1025/26)
- C) Scheduled meeting/hearing dates: Not yet scheduled
- D) Date agency anticipates First Notice: Not yet determined
- E) Affect on small businesses, small municipalities or not for profit corporations: The Department of Commerce and Community Affairs has not made a determination.

F) Agency contact person for information:

Name: M. Rose Kelly  
 Address: Chief Council  
 Department of Financial Institutions  
 100 West Randolph, 15-700  
 Chicago, IL 60601  
 Telephone: (312) 814-2008

G) Related rulemakings and other pertinent information: None

b) Part(s) (Heading and Code Citation): Transmitters of Money Act 38 Ill. Adm. Code 205)

1) Rulemaking

- A) Description: Establishes rules regarding the disclosure of exchange rates.
- B) Statutory Authority: (205 ILCS 657/95).
- C) Scheduled meeting/hearing date: Not yet scheduled.
- D) Date agency anticipates First Notice: Not yet determined.
- E) Affect on small business, small municipalities or not for profit corporations: The rule will affect all Transmitter of Money Licensees and their agents.

F) Agency contact person for information:

ILLINOIS DEPARTMENT OF FINANCIAL INSTITUTIONS

JULY 1998 REGULATORY AGENDA

M. Rose Kelly  
 Chief Counsel  
 Illinois Department of Financial Institutions  
 100 W. Randolph, 15-700  
 Chicago, IL 60601  
 (312) 814-2008

G) Related rulemaking and other pertinent information: None



## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## JUNE 1998 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Multifamily Rental Housing Mortgage Loan Program

1) Rulemaking:

A) Description: A change in the definition of two officers of the Authority, and a reduction in the amount of time that occupancy restrictions on certain developments must remain in place if an owner of such a development is granted an increase in its equity in the development and an increased rate of return on its equity.

B) Statutory Authority: Sections 7.19 and 7.25 of the Illinois Housing Development Act [20 ILCS 3805/7.19 and 7.25].

C) Schedule meeting/hearing date: June 19, 1998

D) Date agency anticipates First Notice: July 14, 1998

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Name: Richard B. Muller, Esq.  
Illinois Housing Development Authority  
Address: 401 N. Michigan Ave., Ste. 900  
Chicago, IL 60611  
Telephone: (312) 836-5327

G) Related rulemakings and other pertinent information: None

- b) Part(s) (Heading and Code Citation): Affordable Housing Program 47 Ill. Adm Code 360

1) Rulemaking:

A) Description: Amend various sections to conform with updated guidelines.

B) Statutory Authority: Sections 7.19 and 7.25 of the Illinois Housing Development Act [20 ILCS 3805/7.19 and 7.25] and Sections 4 and 7(e) of the Illinois Affordable Housing Act [310 ILCS 65/4 and 7(e)].

C) Schedule meeting/hearing date: July, 1998

D) Date agency anticipates First Notice: August, 1998

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## JUNE 1998 REGULATORY AGENDA

- E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Name: Lori Silver-Finkel, Esq.  
Illinois Housing Development Authority  
Address: 401 N. Michigan Ave., Ste. 900  
Chicago, IL 60611  
Telephone: (312) 836-7341

G) Related rulemakings and other pertinent information: None

## DEPARTMENT OF LABOR

## JULY 1998 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Freedom of Information, 2 Ill. Adm. Code 1400.

1) Rulemaking:

- A) Description: The proposed rulemaking will pertain to the availability of public records and procedures to be followed, including:

i) the times and places where such records will be made available; and,

ii) the persons from whom such records may be obtained.

- B) Statutory Authority: Freedom of Information Act, 5 ILCS 140/3 (g) (1996).

- C) Schedule meeting/hearing date: Not yet determined.

- D) Date agency anticipates First Notice: Not yet determined.

- E) Affect on small businesses, small municipalities or not for profit corporations: No adverse impact anticipated.

- F) Agency contact person for information:

Name: Scott D. Miller  
Chief Legal Counsel  
Address: Illinois Department of Labor  
160 North LaSalle Street  
Suite C-1300  
Chicago, Illinois 60601  
Telephone: (312) 793-1805

- G) Related rulemakings and other pertinent information: None

- b) Part(s) (Heading and Code Citation): Arbitration Policies, Functions, and Procedures, 56 Ill. Adm. Code 110.

1) Rulemaking:

- A) Description: The proposed rulemaking will update the regulations under the Labor Arbitration Services Act, 710 ILCS 15/1-14 (1996), and adjust the Department's administration of the Act accordingly, including but not limited to, updating incorporations by reference, increasing the administrative filing fee charged by the Illinois Arbitration Service, and increasing the per diem fee charged by arbitrators, except Department employees.

## DEPARTMENT OF LABOR

## JULY 1998 REGULATORY AGENDA

- B) Statutory Authority: Labor Arbitration Services Act, 710 ILCS 10/3 (1996).

- C) Schedule meeting/hearing date: Not yet determined.

- D) Date agency anticipates First Notice: Not yet determined.

- E) Affect on small businesses, small municipalities or not for profit corporations: Fees for services will increase.

- F) Agency contact person for information:

Name: Scott D. Miller  
Chief Legal Counsel  
Address: Illinois Department of Labor  
160 North LaSalle Street  
Suite C-1300  
Chicago, Illinois 60601  
Telephone: (312) 793-1805

- G) Related rulemakings and other pertinent information: None

- c) Part(s) (Heading and Code Citation): Health and Safety, 56 Ill. Adm. Code 350.

1) Rulemaking:

- A) Description: The proposed rulemaking will:  
i) update the Illinois Department of Labor's (IDOL) occupational safety and health standards. Section 4 of the Health and Safety Act mandates IDOL's adoption of all federal occupational safety and health standards promulgated, modified, or revoked by the U.S. Secretary of Labor, unless IDOL promulgates alternative rules providing at least as effective health and safety standards as the federal standards. See 820 ILCS 225/4 (1996). Adoption of these rules ensures that public sector workers are provided with the same level of protection that is afforded to private sector workers within the State; and,

ii) amend 56 Ill. Adm. Code 350.195 to provide that hearings under Part 350 will be conducted in accordance with the Illinois Administrative Procedure Act, 5 ILCS 100/10-5 - 10-70 (1996) and the Department's rules under 68 Ill. Adm. Code 680.230.

- B) Statutory Authority: Safety Inspection and Education Act, 820 ILCS 220/2 (k) (1996) and Health and Safety Act, 820

## DEPARTMENT OF LABOR

## JULY 1998 REGULATORY AGENDA

ILCS 225/7 (1996).

C) Schedule meeting/hearing date: Not yet determined.D) Date agency anticipates First Notice: Not yet determined.

E) Affect on small businesses, small municipalities or not for profit corporations: Due to the preemptive effect of the federal OSH Act, private sector businesses are not affected. All public sector work sites will be affected.

Costs associated with compliance are for the correction of work site health and safety hazards, which will have a direct positive impact within the public sector work force.

Savings will be realized due to fewer workplace injuries and occupational diseases, lower replacement employee costs, and increased employee productivity due to fewer lost work days and a healthier work force.

Variance procedures within the regulations allow public sector employers to petition for variance from standards when compliance cannot be achieved because of factors beyond their control.

The amendment to 56 Ill. Adm. Code 350.195 will harmonize the Director of Labor's administration of contested cases under the Safety Inspection and Education Act and Health and Safety Act with the procedural rules that apply to a majority of the contested cases conducted under the jurisdiction of the Director of Labor and the Department.

F) Agency contact person for information:

Name: Scott D. Miller

Chief Legal Counsel

Address: Ill. Department of Labor

160 North LaSalle Street

Suite C-1300

Chicago, Illinois 60601

Telephone: (312) 793-1805

G) Related rulemakings and other pertinent information: None

d) Part(s) (Heading and Code Citation): Rules and Regulations Relating to the Operation of Private Employment Agencies, 68 Ill. Adm. Code 680.100.

1) Rulemaking:

## DEPARTMENT OF LABOR

## JULY 1998 REGULATORY AGENDA

A) Description: The proposed rulemaking will:

i) remove outdated references to the Illinois Human Rights Act and the Illinois Human Rights Commission contained in sections 680.100 - 680.140; and,

ii) update section 680.230, the procedural rules that apply to a majority of contested cases conducted under the jurisdiction of the Director of Labor and the Department.

B) Statutory Authority: Private Employment Agency Act, 225 ILCS 515/1 (1996).

C) Schedule meeting/hearing date: Not yet determined.

D) Date agency anticipates First Notice: Not yet determined.

E) Affect on small businesses, small municipalities or not for profit corporations: No adverse impact anticipated.

F) Agency contact person for information:

Name: Scott D. Miller

Chief Legal Counsel

Address: Illinois Department of Labor

160 North LaSalle Street

Suite C-1300

Chicago, Illinois 60601

Telephone: (312) 793-1805

G) Related rulemakings and other pertinent information: None



NOTICES: Due to Register submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting.

*It is the policy of the Committee to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a proposed rule, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:*

*Joint Committee on Administrative Rules  
700 Stratton Office Building  
Springfield, Illinois 62706*

**RULEMAKINGS SCHEDULED FOR JCAR REVIEW**

The following rulemakings are scheduled for review at this meeting. JCAR staff may be proposing action with respect to some of these rulemakings. JCAR members may have questions concerning, and may initiate action with respect to, any item scheduled for JCAR review and any other issues within the Committee's purview.

**PROPOSED RULEMAKINGS**

Attorney General

- Immigration Services (14 Ill Adm Code 485)  
-First Notice Published: 22 Ill Reg 7714 - 5/8/98  
-Expiration of Second Notice: 8/6/98
- Standard Procurement (44 Ill Adm Code 1300)  
-First Notice Published: 22 Ill Reg 6288 - 4/10/98  
-Expiration of Second Notice: 8/24/98

Banks and Real Estate

- Reverse Mortgage Loans (38 Ill Adm Code 300)  
-First Notice Published: 22 Ill Reg 8248 - 5/15/98  
-Expiration of Second Notice: 8/13/98
- Reimbursement to Banks and Corporate Fiduciaries for Financial Records (38 Ill Adm Code 356)  
-First Notice Published: 22 Ill Reg 8245 - 5/15/98  
-Expiration of Second Notice: 8/13/98

JAMES R. THOMPSON CENTER  
ROOM 16-503  
CHICAGO, ILLINOIS  
10:30 A.M.  
JULY 21, 1998

- Hearings Before the Office of Banks and Real Estate (38 Ill Adm Code 392)  
-First Notice Published: 22 Ill Reg 8239 - 5/15/98  
-Expiration of Second Notice: 8/13/98

Central Management Services

- Merit and Fitness (80 Ill Adm Code 302)  
-First Notice Published: 22 Ill Reg 7727 - 5/8/98  
-Expiration of Second Notice: 8/9/98

- Pay Plan (80 Ill Adm Code 310)  
-First Notice Published: 22 Ill Reg 7385 - 5/1/98  
-Expiration of Second Notice: 7/30/98

Commerce Commission

- Fees and Taxes (92 Ill Adm Code 1205)  
-First Notice Published: 21 Ill Reg 13951 - 10/24/97  
-Expiration of Second Notice: 7/22/98

Environmental Protection Agency

- Procedures for Issuing Financial Assistance Awards Under the Illinois Clean Lakes Program (35 Ill Adm Code 367)  
-First Notice Published: 21 Ill Reg 10192 - 8/8/97  
-Expiration of Second Notice: 8/8/98

- Procedures for Determining Priorities for Assistance Awards Under the Illinois Clean Lakes Program (35 Ill Adm Code 368)  
-First Notice Published: 21 Ill Reg 10183 - 8/8/97  
-Expiration of Second Notice: 8/8/98

Human Services

- Temporary Assistance for Needy Families (89 Ill Adm Code 112)  
-First Notice Published: 22 Ill Reg 4354 - 3/6/98  
-Expiration of Second Notice: 8/7/98
- Temporary Assistance for Needy Families (89 Ill Adm Code 112)  
-First Notice Published: 22 Ill Reg 6024 - 4/3/98  
-Expiration of Second Notice: 8/15/98
- Repeal of Minimum Standards for Licensure of Community Residential Alternatives (59 Ill Adm Code 113)  
-First Notice Published: 22 Ill Reg 6354 - 4/10/98

JAMES R. THOMPSON CENTER  
ROOM 16-503  
CHICAGO, ILLINOIS  
10:30 A.M.  
JULY 21, 1998

14. Expiration of Second Notice: 7/22/98  
Minimum Standards for Certification of Developmental Training Programs (59 Ill Adm Code 119)  
-First Notice Published: 22 Ill Reg 7086 - 4/24/98  
-Expiration of Second Notice: 8/9/98
15. WIC Vendor Management Code (77 Ill Adm Code 672)  
-First Notice Published: 22 Ill Reg 2643 - 2/6/98  
-Expiration of Second Notice: 8/12/98

#### Insurance

16. Derivative Instruments (50 Ill Adm Code 806)  
-First Notice Published: 22 Ill Reg 4593 - 3/13/98  
-Expiration of Second Notice: 7/22/98

17. Supplemental Reports for Property and Casualty Insurance Companies (50 Ill Adm Code 936)  
-First Notice Published: 22 Ill Reg 5177 - 3/20/98  
-Expiration of Second Notice: 7/22/98

18. Examination and Audit Procedure (50 Ill Adm Code 4401)  
-First Notice Published: 22 Ill Reg 5782 - 3/27/98  
-Expiration of Second Notice: 8/7/98

19. Definition of Salary (50 Ill Adm Code 4402)  
-First Notice Published: 22 Ill Reg 5775 - 3/27/98  
-Expiration of Second Notice: 8/7/98

20. Electronic Filing (50 Ill Adm Code 4405)  
-First Notice Published: 22 Ill Reg 5778 - 3/27/98  
-Expiration of Second Notice: 8/7/98

#### Natural Resources

21. Selection of Contractors and Consultants for Abandoned Mined Lands Reclamation Projects (44 Ill Adm Code 1150)  
-First Notice Published: 22 Ill Reg 6437 - 4/10/98  
-Expiration of Second Notice: 8/28/98

#### Nuclear Safety

22. Licensing of Radioactive Material (32 Ill Adm Code 330)  
-First Notice Published: 22 Ill Reg 6039 - 4/3/98  
-Expiration of Second Notice: 7/25/98

JAMES R. THOMPSON CENTER  
ROOM 16-503  
CHICAGO, ILLINOIS  
10:30 A.M.  
JULY 21, 1998

#### Professional Regulation

23. Illinois Architecture Practice Act of 1989 (68 Ill Adm Code 1150)  
-First Notice Published: 22 Ill Reg 4607 - 3/13/98  
-Expiration of Second Notice: 7/22/98

24. Illinois Dental Practice Act (68 Ill Adm Code 1220)  
-First Notice Published: 21 Ill Reg 10889 - 8/8/97  
-Expiration of Second Notice: 8/7/98

25. Professional Geologist Licensing Act (68 Ill Adm Code 1252)  
-First Notice Published: 22 Ill Reg 7530 - 5/1/98  
-Expiration of Second Notice: 8/12/98

26. Veterinary Medicine and Surgery Practice Act of 1994 (68 Ill Adm Code 1500)  
-First Notice Published: 22 Ill Reg 6815 - 4/17/98  
-Expiration of Second Notice: 7/23/98

#### Public Aid

27. Child Support Enforcement (89 Ill Adm Code 160)  
-First Notice Published: 22 Ill Reg 6050 - 4/3/98  
-Expiration of Second Notice: 8/15/98

#### Public Health

28. AIDS Drug Assistance Program (77 Ill Adm Code 692)  
-First Notice Published: 21 Ill Reg 9714 - 7/25/97  
-Expiration of Second Notice: 7/26/98

#### Racing Board

29. Hearings and Enforcement Proceedings (11 Ill Adm Code 204)  
-First Notice Published: 22 Ill Reg 4847 - 3/13/98  
-Expiration of Second Notice: 7/25/98

#### Revenue

30. Motor Fuel Tax (86 Ill Adm Code 500)  
-First Notice Published: 22 Ill Reg 7550 - 5/1/98  
-Expiration of Second Notice: 8/6/98

31. Special County Retailers' Occupation Tax for Public Safety (86 Ill Adm Code 670)  
-First Notice Published: 22 Ill Reg 7564 - 5/1/98

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ROOM 16-503  
CHICAGO, ILLINOIS  
10:30 A.M.  
JULY 21, 1998

- Expiration of Second Notice: 8/6/98
32. Special County Service Occupation Tax for Public Safety (86 Ill Adm Code 680)  
-First Notice Published: 22 Ill Reg 7568 - 5/1/98  
-Expiration of Second Notice: 8/6/98
33. Electronic Filing of Returns or Other Documents (86 Ill Adm Code 760)  
-First Notice Published: 22 Ill Reg 6605 - 4/10/98  
-Expiration of Second Notice: 7/22/98
- State Banking Board
34. Hearings for Removal of Directors, Officers, Employees or Agents of a State Bank or Corporate Fiduciary (38 Ill Adm Code 900)  
-First Notice Published: 22 Ill Reg 8251 - 5/15/98  
-Expiration of Second Notice: 8/13/98

State Employees' Retirement System

35. The Administration and Operation of the State Employees' Retirement System of Illinois (80 Ill Adm Code 1540)  
-First Notice Published: 22 Ill Reg 6622 - 4/10/98  
-Expiration of Second Notice: 7/22/98

State Police Merit Board

36. Procedures of the Department of State Police Merit Board (80 Ill Adm Code 150)  
-First Notice Published: 22 Ill Reg 8376 - 5/15/98  
-Expiration of Second Notice: 8/13/98

Teachers' Retirement System

37. The Administration and Operation of the Teachers' Retirement System (80 Ill Adm Code 1650)  
-First Notice Published: 22 Ill Reg 7138 - 4/24/98  
-Expiration of Second Notice: 8/5/98

Transportation

38. Inspection Procedures for Special Education School Buses (92 Ill Adm Code 445)  
-First Notice Published: 22 Ill Reg 2558 - 1/30/98  
-Expiration of Second Notice: 7/22/98

Treasurer

JAMES R. THOMPSON CENTER  
ROOM 16-503  
CHICAGO, ILLINOIS  
10:30 A.M.  
JULY 21, 1998

39. Access to Information (2 Ill Adm Code 651)  
-First Notice Published: 22 Ill Reg 1119 - 1/9/98  
-Expiration of Second Notice: 7/26/98
40. Home Ownership Made Easy (74 Ill Adm Code 750)  
-First Notice Published: 22 Ill Reg 1124 - 1/9/98  
-Expiration of Second Notice: 7/26/98
41. Smart Money Program Confidentiality Requirements (74 Ill Adm Code 730)  
-First Notice Published: 22 Ill Reg 1137 - 1/9/98  
-Expiration of Second Notice: 7/26/98
42. Procurement (44 Ill Adm Code 1400)  
-First Notice Published: 22 Ill Reg 7902 - 5/8/98  
-Expiration of Second Notice: 8/7/98

EMERGENCY AND PEREMPTORY RULEMAKINGS

Attorney General

43. Attorney General's Procurement (44 Ill Adm Code 1300) (Emergency)  
-Notice Published: 22 Ill Reg 12013 - 7/10/98

Commerce Commission

44. Standards of Service for Electric Utilities (83 Ill Adm Code 410) (Emergency)  
-Notice Published: 22 Ill Reg 11215 - 6/26/98
45. Electric Reliability (83 Ill Adm Code 411) (Emergency)  
-Notice Published: 22 Ill Reg 11177 - 6/26/98

46. Non-Discrimination in Affiliate Transactions for Electric Utilities (83 Ill Adm Code 450) (Emergency)  
-Notice Published: 22 Ill Reg 11204 - 6/26/98

Comptroller

47. Standard Procurement (44 Ill Adm Code 1120) (Emergency)  
-Notice Published: 22 Ill Reg 12087 - 7/10/98

Human Services

48. Food Stamps (89 Ill Adm Code 121) (Emergency)  
-Notice Published: 22 Ill Reg 10660 - 6/12/98



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10:30 A.M.  
JULY 21, 1998

#### Transportation

49. Contract Procurement (44 Ill Adm Code 660) (Emergency)  
-Notice Published: 22 Ill Reg 11602 - 7/6/98

#### EXEMPT RULEMAKING

#### Pollution Control Board

50. Definitions and General Provisions (35 Ill Adm Code 211)  
-Proposed Date: 5/1/98  
-Adopted Date: 7/6/98
51. Pretreatment Programs (35 Ill Adm Code 310)  
-Proposed Date: 5/1/98  
-Adopted Date: 7/6/98

#### JOINT COMMITTEE ON ADMINISTRATIVE RULES ILLINOIS GENERAL ASSEMBLY

#### SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of June 30, 1998 through July 6, 1998 and have been scheduled for review by the Committee at its July 21, 1998 or August 18, 1998 meetings in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

| Second Notice Expires | Agency and Rule  | Start of First Notice      | JCAR Meeting |
|-----------------------|--|----------------------------|--------------|
| 8/13/98               | Office of Banks and Real Estate, Reverse Mortgage Loans (38 Ill Adm Code 300)  | 5/15/98<br>22 Ill Reg 8248 | 7/21/98      |
| 8/13/98               | Office of Banks and Real Estate, Reimbursement to Banks and Corporate Fiduciaries for Financial Records (38 Ill Adm Code 356)                                  | 5/15/98<br>22 Ill Reg 8245 | 7/21/98      |
| 8/13/98               | Office of Banks and Real Estate, Hearings Before the Office of Banks and Real Estate (38 Ill Adm Code 392)   | 5/15/98<br>22 Ill Reg 8239 | 7/21/98      |
| 8/8/98                | Environmental Protection Agency, Procedures for Issuing Financial Assistance Awards Under the Illinois Clean Lakes Program (35 Ill Adm Code 367)               | 8/8/97<br>21 Ill Reg 10192 | 7/21/98      |
| 8/8/98                | Environmental Protection Agency, Procedures for Determining Priorities for Assistance Awards Under the Illinois Clean Lakes Program (35 Ill Adm Code 368)      | 8/8/97<br>21 Ill Reg 10183 | 7/21/98      |
| 8/13/98               | State Banking Board of Illinois, Hearings for Removal of Directors, Officers, Employees or Agents of a State Bank or Corporate Fiduciary (38 Ill Adm Code 900) | 5/15/98<br>22 Ill Reg 8251 | 7/21/98      |
| 8/13/98               | Department of State Police Merit Board, Procedures of the Department of State Police Merit Board (80 Ill Adm Code 8376)  | 5/15/98<br>22 Ill Reg 8376 | 7/21/98      |

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

150)

7/25/98 Department of Public Health, AIDS Drug Assistance Program (77 Ill Adm Code 692)

7/25/97 7/21/98  
21 Ill Reg

8/15/98      Department of Public Aid, Child Support  
Enforcement (89 Ill Adm Code 160)

4/3/98  
22 Ill Reg  
6050  
7/21/98

8/15/98      Department of Human Services, Temporary Assistance for Needy Families (89 Ill Adm Code 112)

4/3/98  
22 Ill Reg  
6024  
7/21/98

8/19/98 Illinois Commerce Commission, Municipal Electric Tax Rates (83 Ill Adm Code 418)

4/24/98 8/18/98  
22 Ill Reg  
7083

8/19/98

| <u>Department</u>           | <u>of</u>  | <u>Natural</u>     | <u>Resources,</u> |
|-----------------------------|------------|--------------------|-------------------|
| Raccoon,                    | Opossum,   | Striped Skunk, Red |                   |
| Fox, Gray Fox,              | Coyote and | Woodchuck          |                   |
| (Groundhog)                 | Hunting    | on                 |                   |
| Department-Owned,           | - Leased   | or                 | -Managed          |
| Sites (17 Ill Adm Code 150) |            |                    |                   |

5/15/98 8/18/98  
22 Ill Reg  
8321

8/19/98

| Department            | of       | Natural Resources, |
|-----------------------|----------|--------------------|
| Muskrat,              | Mink,    | Raccoon,           |
| Striped Skunk,        | Weasel,  | Red Fox, Gray      |
| Fox, Coyote,          | Badger,  | Beaver and         |
| Woodchuck (Groundhog) | Trapping | (17 Ill            |
| Adm Code              | 570)     |                    |

5/15/98 8/18/98  
22 Ill Reg  
8313

8/19/98      Department of Natural Resources,  
Squirrel Hunting (17 Ill Adm Code 690)

5/15/98 8/18/98  
22 Ill Reg  
8329

8/19/98 Department of Natural Resources, The  
Taking of Wild Turkeys - Fall Gun  
Season (17 Ill Adm Code 715)

5/15/98 8/18/98  
22 Ill Reg  
8347

8/19/98      Department of Natural Resources, The  
Taking of Wild Turkeys - Fall Archery  
Season (17 Ill Adm Code 720)

5/15/98 8/18/98  
22 Ill Reg  
8337

8/1/9/98 Department of Natural Resources, Dove  
Hunting (17 Ill Adm Code 730)

5/15/98 8/18/98  
22 Ill Reg  
8301

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

|         |   |                               |         |
|---------|---|-------------------------------|---------|
| 8/19/98 | <u>Department of Natural Resources</u> , Crow,<br>Woodcock, Snipe, Rail and Teal Hunting<br>(17 Ill Adm Code 740) | 5/15/98<br>22 Ill Reg<br>8291 | 8/18/98 |
|---------|---|-------------------------------|---------|

| 8/19/98 | Department of Public Aid, Hospital<br>Services (89 Ill Adm Code 148) | 5/15/98    | 8/18/98 |
|---------|--|------------|---------|
|         |  | 22 Ill Reg |         |
|         |  | 8356       |         |

|         |   |            |         |
|---------|---|------------|---------|
| 8/19/98 | Department of Public Health, Lead<br>Poisoning Prevention Code (77 Ill Adm<br>Code 845) | 1/30/98    | 8/18/98 |
|         |   | 22 Ill Reg | 2532    |

Rules acted upon during the quarter of April 1 through June 30, 1998 (Issues 1-13) are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 Ill. Adm. Code 4401 published in Issue 40 will be listed as 50-4401-40. The letter "R" designates a rule that is being repealed. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or [jnatale@ccgate.sos.state.il.us](mailto:jnatale@ccgate.sos.state.il.us) (Internet address).

**PROPOSED**

|            |                    |                    |              |              |               |                  |
|------------|--------------------|--------------------|--------------|--------------|---------------|------------------|
| 8-258-26   | 35-726-24          | 77-1110-22         | 89-360-26    | 23-252-18    | 68-1220-24    | 44-1-29          |
| 14-485-19  | 35-728-24          | 77-2030-28         | 89-431-19    | 23-275-29    | 68-1230-24    | 44-10-29         |
| 17-110-21  | 35-738-24          | 77-2055R-22        | 89-437-27    | 23-451-18    | 68-1245-20    | 44-660-27        |
| 17-510-21  | 35-740-18          | 77-2090-28         | 89-507-28    | 23-2700-26   | 68-1252-24    | 44-1120-28       |
| 17-530-21  | 35-830-27          | 80-150-20          | 89-676-19    | 23-2720-26   | 68-1275-24    | 44-1300-28       |
| 17-550-20  | 35-831-27          | 80-302-19          | 89-684-21    | 23-2730-26   | 68-1285-24    | 44-1400-29       |
| 17-570-20  | 35-885-25          | 80-310-18,29       | 89-686-19,20 | 23-2733-26   | 68-1375-20    | 44-1500-29       |
| 17-590-21  | 38-300-20          | 80-1650-17,22,29   | 89-716R-19   | 23-2735-26   | 71-40-23      | 44-1600-29       |
| 17-680-21  | 38-356-20          | 80-2800-28         | 89-4201-26   | 23-2755-26   | 77-205-22     | 44-2000-28       |
| 17-690-20  | 38-392-20          | 83-410-26          | 92-107-24    | 23-2760-26   | 77-250-22     | 44-5000-29       |
| 17-715-20  | 38-900-20          | 83-411-26          | 92-171-24    | 23-2761-26   | 77-280-24     | 59-103-28        |
| 17-720-20  | 41-170-21          | 83-418-17          | 92-172-24    | 23-2763-26   | 77-280-24     | 59-120-28        |
| 17-730-20  | 83-450-26          | 83-450-26          | 92-173-24    | 23-2765-26   | 77-510-18     | 68-1455R-29      |
| 17-740-20  | 83-595-27          | 83-595-27          | 92-177-24    | 23-2771-26   | 68-1455-20,29 | 68-1455-20,29    |
| 17-880-21  | 83-745-26          | 83-745-26          | 92-178-24    | 23-2790-26   | 77-696-25     | 77-2030-28       |
| 17-2010-21 | 86-100-17          | 86-100-17          | 92-179-24    | 32-420R-24   | 77-820-22     | 77-2090-28       |
| 17-3025-21 | 86-500-18,19,20    | 86-500-18,19,20    | 92-180-24    | 32-422-24    | 77-860-21     | 80-310-29        |
| 20-1235-18 | 86-530-18          | 86-530-18          |              | 32-422-24    | 77-860R-21    | 80-1650-17,22,29 |
| 23-1-23    | 86-680-18          | 86-680-18          |              | 32-610R-23   | 80-1650-17    | 80-2800-28       |
| 23-25-29   | 86-3000-17,22      | 86-3000-17,22      |              | 35-195R-23   | 80-3000-28    | 83-410-26        |
| 23-56-23   | 89-10-28           | 89-10-28           |              | 35-201-27,28 | 83-416-23     | 83-411-26        |
| 23-145-19  | 89-14-26           | 89-14-26           |              | 35-211-27    | 83-505-23     | 83-450-26        |
| 23-260-29  | 89-50-29           | 89-50-29           |              | 35-215-27    | 83-506-23     | 89-50-29         |
| 23-575-23  | 89-103-22          | 89-103-22          |              | 35-220-28    | 83-605-28     | 89-112-28        |
| 26-201-19  | 89-112-22,26,27,28 | 89-112-22,26,27,28 |              | 35-310-27    | 83-650-28     | 89-121-24,28     |
| 26-202-19  | 89-113-26,27       | 89-113-26,27       |              | 35-703-18    | 83-757-21     | 89-140-29        |
| 26-204-19  | 89-114-27          | 89-114-27          |              | 35-720-18    | 86-130-28     | 89-146-29        |
| 26-216-19  | 89-117-20,26       | 89-117-20,26       |              | 35-721-18    | 86-495-28     | 89-148-29        |
| 35-211-18  | 89-120-22,29       | 89-120-22,29       |              | 35-724-18    | 86-516-25     | 89-149-29        |
| 35-252-25  | 89-121-20,24,28,29 | 89-121-20,24,28,29 |              | 35-725-18    | 86-517-25     | 89-153-29        |
| 35-276-29  | 89-112-29          | 89-112-29          |              | 35-728-18    | 86-750-25     | 89-302-17        |
| 35-304-24  | 89-119-17          | 89-119-17          |              | 35-733-18    | 86-3000-24    | 89-507-28        |
| 35-310-18  | 89-140-18          | 89-140-18          |              | 35-742-25    | 89-120-20     |                  |
| 35-355-29  | 89-146-29          | 89-146-29          |              | 35-811-27    | 89-121-19     |                  |
| 35-506-24  | 89-148-20,29       | 89-148-20,29       |              | 35-813-27    | 89-140-24     |                  |
| 35-580-17  | 89-149-29          | 89-149-29          |              | 35-848-27    | 89-144-22     |                  |
| 35-703-24  | 89-153-19,29       | 89-153-19,29       |              | 38-110-29    | 89-148-27     |                  |
| 35-720-24  | 89-165-26          | 89-165-26          |              | 38-110-29    | 89-302-17,21  |                  |
| 35-721-24  | 89-140-26          | 89-140-26          |              | 38-140-29    | 89-309-21     |                  |
| 35-722-24  | 89-240-21          | 89-240-21          |              | 38-160-29    | 89-401-24     |                  |
| 35-723-24  | 89-300-19          | 89-300-19          |              | 44-750-28    | 89-679-24     |                  |
| 35-724-24  | 89-302-18          | 89-302-18          |              | 50-4404-20   | 92-441-28     |                  |
| 35-725-24  | 89-305R-19         | 89-305R-19         |              | 50-4415-19   | 92-541-28     |                  |
|            | 89-315-19          | 89-315-19          |              | 50-4435-24   | 92-1010-20    |                  |
|            | 89-316-21          | 89-316-21          |              | 59-115-20    | 92-1020-27    |                  |
|            |                    |                    |              | 59-119-19    |               |                  |
|            |                    |                    |              | 59-121-19    |               |                  |
|            |                    |                    |              | 62-240-20,21 |               |                  |
|            |                    |                    |              | 62-300-20    |               |                  |
|            |                    |                    |              | 62-501-27    |               |                  |
|            |                    |                    |              | 68-900R-25   |               |                  |

**EMERGENCY**

23-56-23  
23-575-23  
38-360-29  
44-1R-29

**PEREMPTORY**

8-125-22  
80-310-17,18



This Sections Affected Index lists, by Title, each Section of a Part on which rulemaking has occurred in this volume (calendar year) of the *Illinois Register*. The columns indicate the type of rulemaking activity and the action taken along with the page number on which the first page of the notice of rulemaking activity appeared. If a Section on which action is being taken in the current volume of the Register is proposed in a previous volume, the last two digits of the previous volume's year appear immediately after the page number separated by a slash., e.g. 11 III. Adm. Code 465.115 was proposed last year and adopted this year. The action entry reads: (P-15655/97; A-6520). The codes are listed below.

#### TYPE OF RULE MAKING

am = amend to existing Section  
n = New Section  
r = repeal of existing Section  
re = recodified  
# = renumbered

#### ACTION CODE

P = Proposed Rule  
A = Adopted Rule  
PF = Prohibited Filing  
E = Emergency  
S = Suspension  
O = ICAR Objection  
PP = Peremptory  
F = Failure to Remedy Objections  
M = Modification  
W = Withdrawal  
RC = Recommendations  
RS = Response  
CC = Codification Changes  
EC = Expedited Correction  
RQ = Request for Correction  
C = Correction  
R = Refusal

#### 1998

##### TITLE I

100.110 am (P-5416;A-11532)  
100.130 am (P-5416;A-11532)  
100.140 am (P-5416;A-11532)  
100.150 am (P-5416;A-11532)

##### TITLE 2

565.10 n (P-5829)  
565.20 n (P-5829)  
565.30 n (P-5829)  
565.40 n (P-5829)  
565.50 n (P-5829)  
565.55 n (P-5829)  
565.60 n (P-5829)

SAL-1

##### Title 2 (cont.)

651.101 am (P-1119)  
651.103 am (P-1119)  
651.Ap.B am (P-1119)  
926.210 am (P-1346)  
6000.100 n (A-9569)  
6000.110 n (A-9569)  
6000.120 n (A-9569)  
6000.130 n (A-9569)  
6000.140 n (A-9569)  
6000.150 n (A-9569)  
6000.200 n (A-9569)  
6000.210 n (A-9569)  
6000.220 n (A-9569)  
6000.230 n (A-9569)  
6000.240 n (A-9569)  
6000.250 n (A-9569)  
6000.260 n (A-9569)  
6000.300 n (A-9569)  
6000.400 n (A-9569)  
6000.Ap.A n (A-9569)

##### TITLE 8

3.10 am (P-6265;A-11698)  
3.20 am (P-6265;A-11698)  
3.30 am (P-6265;A-11698)  
3.40 am (P-6265;A-11698)  
3.50 am (P-6265;A-11698)  
3.60 am (P-6265;A-11698)  
3.60 am (P-6265;A-11698)  
3.80 am (P-6265;A-11698)  
3.90 am (P-6265;A-11698)  
3.100 am (P-6265;A-11698)  
3.110 am (P-6265;A-11698)  
3.120 am (P-6265;A-11698)  
3.130 am (P-6265;A-11698)  
3.140 am (P-6265;A-11698)  
3.180 r (P-6265;A-11698)  
3.190 r (P-6265;A-11698)  
3.200 r (P-6265;A-11698)  
3.210 r (P-6265;A-11698)  
3.220 r (P-6265;A-11698)  
3.230 r (P-6265;A-11698)  
116.60 am (P-12024/97;W-1602)  
125.142 am (PP-3602)  
125.260 am (PP-5740)  
125.270 am (PP-3602)  
125.280 am (PP-5740)  
125.360 am (PP-3602)  
125.380 am (PP-5740)  
125.380 am (PP-9384)  
258.10 n (P-10927)  
258.20 n (P-10927)

##### TITLE 11

204.100 am (P-5076)  
300.100 am (P-12008/97;A-7044)  
314.10 am (P-12095/97;A-2221)  
314.30 am (P-12095/97;A-2221)  
314.50 am (P-12095/97;A-2221)  
315.20 am (P-12087/97;A-2214)  
315.30 am (P-12087/97;A-2214)  
317.50 am (P-12084/97;A-2212)  
415.10 am (P-17011/97;A-7046)  
502.40 am (P-3759;A-10648)  
603.50 am (P-13281/97;A-3594)  
603.55 n (P-13281/97;A-3594)  
603.120 am (P-13281/97;A-3594)  
603.180 n (P-12091/97;A-2217)  
1318.90 am (P-1109;A-7049)  
1411.140 am (P-15442/97;A-4847)  
1770.40 am (P-1650;A-9307)  
1770.50 am (P-1650;A-9307)  
1770.60 am (P-1650;A-9307)  
1770.70 am (P-1650;A-9307)  
1770.80 am (P-1650;A-9307)  
1770.90 am (P-1650;A-9307)  
1770.100 am (P-1650;A-9307)  
1770.130 am (P-1650;A-9307)  
1770.140 am (P-1650;A-9307)  
1770.150 am (P-1650;A-9307)  
1770.160 am (P-1650;A-9307)

SAL-2

|                  |          |          |                     |                    |         |                     |                  |        |                     |                 |         |                     |                     |
|------------------|----------|----------|---------------------|--------------------|---------|---------------------|------------------|--------|---------------------|-----------------|---------|---------------------|---------------------|
| Title 11 (cont.) | 1770.170 | am       | (P-1650/A-9307)     | 510.10             | am      | (P-2007/A-10394)    | 510.20           | am     | (P-8686)            | 830.20          | am      | (P-16948/97;A-6697) |                     |
|                  | 1770.190 | am       | (P-1650/E-1964)     | 510.20             | am      | (P-2007/A-10394)    | 590.40           | am     | (P-8686)            | 830.30          | am      | (P-16948/97;A-6697) |                     |
|                  | 1770.200 | am       | (O-2639/O-8041)     | 510.50             | am      | (P-2007/A-10394)    | 590.50           | am     | (P-8686)            | 830.60          | am      | (P-16948/97;A-6697) |                     |
|                  |          | am       | (P-1650)            | 510.60             | am      | (P-2007/A-10394)    | 590.60           | am     | (P-8686)            | 830.70          | am      | (P-16948/97;A-6697) |                     |
|                  | TITLE 14 | 130.50   | am                  | (P-2763)           | 510.80  | am                  | (P-2007/A-10394) | 590.80 | am                  | (P-8686)        | 830.90  | am                  | (P-16948/97;A-6697) |
|                  |          | 130.100  | am                  | (P-2763)           | 510.85  | am                  | (P-2007/A-10394) | 590.85 | am                  | (P-8686)        | 880.20  | am                  | (P-8747)            |
|                  |          | 130.352  | am                  | (P-2763)           | 510.110 | am                  | (P-2007/A-10394) | 650.10 | am                  | (P-2690;A-8007) | 880.60  | n                   | (P-8747)            |
|                  |          | 130.500  | am                  | (P-2763)           | 510.120 | am                  | (P-2007/A-10394) | 650.20 | am                  | (P-2690;A-8007) | 880.70  | n                   | (P-8747)            |
|                  |          | 130.801  | am                  | (P-2763)           | 510.130 | am                  | (P-2007/A-10394) | 650.21 | am                  | (P-2690;A-8007) | 1522.10 | n                   | (P-12993/97;A-2141) |
|                  |          | 130.1102 | am                  | (P-8861/97;A-1933) | 510.160 | am                  | (P-2007/A-10394) | 650.22 | am                  | (P-2690;A-8007) | 1522.20 | n                   | (P-12993/97;A-2141) |
| 130.1104         |          | am       | (P-8861/97;A-1933)  | 510.170            | am      | (P-2007/A-10394)    | 650.23           | am     | (P-2690;A-8007)     | 1522.30         | n       | (P-12993/97;A-2141) |                     |
| 130.1107         |          | am       | (P-8861/97;A-1933)  | 510.175            | am      | (P-2007/A-10394)    | 650.40           | am     | (P-2690;A-8007)     | 1522.40         | n       | (P-12993/97;A-2141) |                     |
| 130.1109         |          | am       | (P-8861/97;A-1933)  | 510.185            | am      | (P-2007/A-10394)    | 650.50           | am     | (P-2690;A-8007)     | 1522.50         | n       | (P-12993/97;A-2141) |                     |
| 130.1111         |          | am       | (P-8861/97;A-1933)  | 510.190            | am      | (P-2007/A-10394)    | 650.60           | am     | (P-2690;A-8007)     | 1522.60         | n       | (P-12993/97;A-2141) |                     |
| TITLE 17         | 130.1114 | r        | (P-8861/97;A-1933)  | 510.200            | am      | (P-2007/A-10394)    | 650.65           | am     | (P-2690;A-8007)     | 1522.70         | n       | (P-12993/97;A-2141) |                     |
|                  | 130.1115 | am       | (P-8861/97;A-1933)  | 510.205            | am      | (P-2007/A-10394)    | 650.67           | am     | (P-2690;A-8007)     | 1522.80         | n       | (P-12993/97;A-2141) |                     |
|                  | 130.1118 | am       | (P-8861/97;A-1933)  | 510.210            | am      | (P-2007/A-10394)    | 660.10           | am     | (P-2708;A-8026)     | 1522.90         | n       | (P-12993/97;A-2141) |                     |
|                  | 130.1123 | am       | (P-8861/97;A-1933)  | 510.220            | am      | (P-2007/A-10394)    | 660.20           | am     | (P-2708;A-8026)     | 1522.Ex.A       | n       | (P-12993/97;A-2141) |                     |
|                  | 130.1124 | am       | (P-8861/97;A-1933)  | 510.260            | am      | (P-2007/A-10394)    | 660.25           | am     | (P-2708;A-8026)     | 1522.Ex.B       | n       | (P-12993/97;A-2141) |                     |
|                  | 130.1126 | am       | (P-8861/97;A-1933)  | 510.275            | am      | (P-2007/A-10394)    | 660.40           | am     | (P-2708;A-8026)     | 1522.Ex.C       | n       | (P-12993/97;A-2141) |                     |
|                  | 130.1129 | am       | (P-8861/97;A-1933)  | 510.280            | am      | (P-2007/A-10394)    | 660.50           | am     | (P-2708;A-8026)     | 1536.10         | am      | (P-2651;A-10473)    |                     |
|                  | 130.1130 | n        | (P-8861/97;A-1933)  | 510.290            | am      | (P-2007/A-10394)    | 660.60           | am     | (P-2708;A-8026)     | 1536.20         | am      | (P-2651;A-10473)    |                     |
|                  | 130.1131 | n        | (P-8861/97;A-1933)  | 550.10             | am      | (P-1062;A-10425)    | 670.30           | am     | (P-2678;A-7995)     | 1536.25         | am      | (P-2651;A-10473)    |                     |
|                  | 130.1132 | n        | (P-8861/97;A-1933)  | 550.20             | am      | (P-1062;A-10425)    | 670.40           | am     | (P-2678;A-7995)     | 1536.30         | am      | (P-2651;A-10473)    |                     |
| TITLE 17         | 130.2130 | am       | (P-2763)            | 550.30             | am      | (P-1062;A-10425)    | 670.60           | am     | (P-2678;A-7995)     | 1536.40         | am      | (P-2651;A-10473)    |                     |
|                  | 135.50   | am       | (P-2763/A-9571)     | 550.50             | am      | (P-1062;A-10425)    | 680.40           | am     | (P-8751)            | 1536.50         | am      | (P-2651;A-10473)    |                     |
|                  | 135.100  | am       | (P-2763/A-9571)     | 550.60             | am      | (P-1062;A-10425)    | 680.50           | am     | (P-8751)            | 1536.60         | am      | (P-2651;A-10473)    |                     |
|                  | 135.352  | am       | (P-2763/A-9571)     | 550.80             | am      | (P-1062;A-10425)    | 680.80           | am     | (P-8751)            | 1536.70         | am      | (P-2651;A-10473)    |                     |
|                  | 135.800  | am       | (P-2763/A-9571)     | 550.90             | am      | (P-1062;A-10425)    | 690.30           | am     | (P-8329)            | 1536.80         | am      | (P-2651;A-10473)    |                     |
|                  | 135.501  | r        | (P-2763/A-9571)     | 710.10             | am      | (P-12465/97;A-2192) | 710.10           | am     | (P-12465/97;A-2192) | 1536.100        | am      | (P-2651;A-10473)    |                     |
|                  | 135.2130 | am       | (P-2763/A-9571)     | 710.20             | am      | (P-12465/97;A-2192) | 710.20           | am     | (P-12465/97;A-2192) | 2010.21         | n       | (P-8664)            |                     |
|                  | 145.50   | am       | (P-14071/97;A-7233) | 120.10             | n       | (P-13480/97;A-2591) | 710.22           | am     | (P-12465/97;A-2192) | 2080.50         | am      | (P-4232;A-10490)    |                     |
|                  | 145.51   | am       | (P-14071/97;A-7233) | 130.30             | am      | (P-14144/9;A-3076)  | 710.28           | n      | (P-12465/97;A-2192) | 2080.60         | am      | (P-4232;A-10490)    |                     |
|                  | 145.300  | r        | (P-14071/97;A-7233) | 130.50             | am      | (P-14144/9;A-3076)  | 710.30           | am     | (P-12465/97;A-2192) | 2080.75         | am      | (P-4232;A-10490)    |                     |
| TITLE 17         | 145.2130 | am       | (P-14071/97;A-7233) | 130.70             | am      | (P-6428 A-11781)    | 710.50           | am     | (P-12465/97;A-2192) | 2520.10         | am      | (P-4225;A-10466)    |                     |
|                  | 145.51   | am       | (P-14071/97;A-7233) | 130.90             | am      | (P-6428 A-11781)    | 710.55           | n      | (P-12465/97;A-2192) | 2520.20         | am      | (P-4225;A-10466)    |                     |
|                  | 145.300  | r        | (P-14071/97;A-7233) | 130.140            | am      | (P-6428 A-11781)    | 715.10           | am     | (P-8347)            | 2520.50         | am      | (P-4225;A-10466)    |                     |
|                  | 145.800  | r        | (P-14071/97;A-7233) | 510.10             | am      | (P-8724)            | 715.20           | am     | (P-8347)            | 3025.10         | am      | (P-8729)            |                     |
|                  | 145.303  | n        | (P-14071/97;A-7233) | 510.70             | am      | (P-8667)            | 715.25           | am     | (P-8347)            | 3025.20         | r       | (P-8729)            |                     |
|                  | 145.803  | r        | (P-14071/97;A-7233) | 530.80             | am      | (P-8667)            | 715.40           | am     | (P-8347)            | 3025.25         | n       | (P-8729)            |                     |
|                  | 145.800  | n        | (P-14071/97;A-7233) | 530.90             | am      | (P-8667)            | 720.10           | am     | (P-8347)            | 3025.30         | n       | (P-8729)            |                     |
|                  | 145.805  | n        | (P-14071/97;A-7233) | 530.100            | am      | (P-8667)            | 720.25           | am     | (P-8347)            | 3025.40         | n       | (P-8729)            |                     |
|                  | 180.15   | n        | (P-1117)            | 530.105            | am      | (P-8667)            | 720.30           | am     | (P-8347)            | 3025.50         | n       | (P-8729)            |                     |
|                  | 485.10   | n        | (P-7714)            | 530.110            | am      | (P-8667)            | 720.40           | am     | (P-8347)            | 3025.60         | n       | (P-8729)            |                     |
| TITLE 17         | 485.20   | n        | (P-7714)            | 530.110            | am      | (P-8667)            | 730.20           | am     | (P-8301)            | 3025.70         | n       | (P-8729)            |                     |
|                  | 485.30   | n        | (P-7714)            | 550.10             | am      | (P-8321)            | 740.20           | am     | (P-8291)            | 3025.80         | n       | (P-8729)            |                     |
|                  | 485.40   | n        | (P-7714)            | 550.30             | am      | (P-8321)            | 810.35           | am     | (P-15309/97;A-4930) | 3025.Ex.A       | n       | (P-8729)            |                     |
|                  | 485.50   | n        | (P-7714)            | 570.35             | n       | (P-8313)            | 810.37           | am     | (P-15309/97;A-4930) | 3040.10         | am      | (P-15995/97;A-4902) |                     |
|                  | 485.60   | n        | (P-7714)            | 570.40             | am      | (P-8313)            | 810.45           | am     | (P-15309/97;A-4930) | 3040.40         | am      | (P-15995/97;A-4902) |                     |
|                  | 485.Ex.A | n        | (P-7714)            | 590.10             | am      | (P-12805/97;A-2182) | 810.50           | am     | (P-15309/97;A-4930) | 3040.50         | am      | (P-15995/97;A-4902) |                     |
|                  | 485.Ex.B | n        | (P-7714)            | 590.15             | am      | (P-8686)            | 810.70           | am     | (P-15309/97;A-4930) | 3040.70         | am      | (P-15995/97;A-4902) |                     |
|                  | 485.Ex.C | n        | (P-7714)            | 590.15             | am      | (P-8686)            | 810.90           | am     | (P-15309/97;A-4930) | 3040.80         | am      | (P-15995/97;A-4902) |                     |
|                  | TITLE 17 | 1770.170 | am                  | (P-1650/A-9307)    | 510.10  | am                  | (P-2007/A-10394) | 510.20 | am                  | (P-8686)        | 830.20  | am                  | (P-16948/97;A-6697) |
|                  |          | 1770.190 | am                  | (P-1650/E-1964)    | 510.20  | am                  | (P-2007/A-10394) | 590.40 | am                  | (P-8686)        | 830.30  | am                  | (P-16948/97;A-6697) |
| 1770.200         |          | am       | (O-2639/O-8041)     | 510.50             | am      | (P-2007/A-10394)    | 590.50           | am     | (P-8686)            | 830.60          | am      | (P-16948/97;A-6697) |                     |
|                  |          | am       | (P-1650)            | 510.60             | am      | (P-2007/A-10394)    | 590.60           | am     | (P-8686)            | 830.70          | am      | (P-16948/97;A-6697) |                     |
| TITLE 14         |          | 130.50   | am                  | (P-2763)           | 510.80  | am                  | (P-2007/A-10394) | 590.80 | am                  | (P-8686)        | 830.90  | am                  | (P-16948/97;A-6697) |
|                  |          | 130.100  | am                  | (P-2763)           | 510.85  | am                  | (P-2007/A-10394) | 590.85 | am                  | (P-8686)        | 880.20  | am                  | (P-8747)            |
|                  |          | 130.352  | am                  | (P-2763)           | 510.110 | am                  | (P-2007/A-10394) | 650.10 | am                  | (P-2690;A-8007) | 880.60  | n                   | (P-8747)            |
|                  |          | 130.500  | am                  | (P-2763)           | 510.120 | am                  | (P-2007/A-10394) | 650.20 | am                  | (P-2690;A-8007) | 880.70  | n                   | (P-8747)            |
|                  |          | 130.801  | am                  | (P-2763)           | 510.130 | am                  | (P-2007/A-10394) | 650.21 | am                  | (P-2690;A-8007) | 1522.10 | n                   | (P-12993/97;A-2141) |
|                  |          | 130.1102 | am                  | (P-8861/97;A-1933) | 510.160 | am                  | (P-2007/A-10394) | 650.22 | am                  | (P-2690;A-8007) | 1522.20 | n                   | (P-12993/97;A-2141) |
|                  | 130.1104 | am       | (P-8861/97;A-1933)  | 510.170            | am      | (P-2007/A-10394)    | 650.23           | am     | (P-2690;A-8007)     | 1522.30         | n       | (P-12993/97;A-2141) |                     |
|                  | 130.1107 | am       | (P-8861/97;A-1933)  | 510.175            | am      | (P-2007/A-10394)    | 650.40           | am     | (P-2690;A-8007)     | 1522.40         | n       | (P-12993/97;A-2141) |                     |
|                  | 130.1109 | am       | (P-8861/97;A-1933)  | 510.185            | am      | (P-2007/A-10394)    | 650.50           | am     | (P-2690;A-8007)     | 1522.50         | n       | (P-12993/97;A-2141) |                     |
|                  | 130.1111 | am       | (P-8861/97;A-1933)  | 510.190            | am      | (P-2007/A-10394)    | 650.60           | am     | (P-2690;A-8007)     | 1522.60         | n       | (P-12993/97;A-2141) |                     |







| Title 32, (cont.) | (P-23)           | 183.415  | r | Title 35 (cont.) | 190.     | r  | (P-1106)             | 219.204 | am | (P-3517)           |
|-------------------|------------------|----------|---|------------------|----------|----|----------------------|---------|----|--------------------|
| 422.150 n         | (P-3383;A-10499) | 183.420  | r | 190.             | 190.     | r  | (P-1106)             | 219.205 | am | (P-3517)           |
| 422.Ap.A n        | (P-3383;A-10499) | 183.425  | r | 195.             | 195.     | r  | (P-1088)             | 219.210 | am | (P-3517)           |
| 422.Ap.B n        | (P-3383;A-10499) | 183.430  | r | 201.103          | 201.103  | am | (P-6500;A-11823)     | 219.211 | am | (P-3517)           |
| 422.Ap.C n        | (P-3383;A-10499) | 183.440  | r | 201.146          | 201.146  | am | (P-6500;A-11823)     | 219.215 | n  | (P-3517)           |
| 610.10 r          | (P-1712;A-9569)  | 183.445  | r | 201.152          | 201.152  | r  | (P-16023;97;A-11451) | 219.216 | n  | (P-3517)           |
| 610.20 r          | (P-1712;A-9569)  | 183.Ap.A | r | 201.153          | 201.153  | r  | (P-16023;97;A-11451) | 219.217 | n  | (P-3517)           |
| 610.30 r          | (P-1712;A-9569)  | 183.Ap.B | r | 201.154          | 201.154  | r  | (P-16023;97;A-11451) | 220.100 | n  | (P-6466;A-6500)    |
| 610.40 r          | (P-1712;A-9569)  | 186.105  | n | 201.155          | 201.155  | am | (P-16023;97;A-11451) | 220.110 | n  | (P-6466;A-6500)    |
|                   |                  | 186.110  | n | 201.157          | 201.157  | am | (P-16023;97;A-11451) | 220.120 | n  | (P-6466;A-6500)    |
|                   |                  | 186.115  | n | 201.158          | 201.158  | am | (P-16023;97;A-11451) | 220.130 | n  | (P-6466;A-6500)    |
| 183.105 r         | (P-23)           | 186.120  | n | 201.159          | 201.159  | am | (P-16023;97;A-11451) | 220.200 | n  | (P-6466;A-6500)    |
| 183.110 r         | (P-23)           | 186.125  | n | 201.160          | 201.160  | am | (P-16023;97;A-11451) | 220.210 | n  | (P-6466;A-6500)    |
| 183.115 r         | (P-23)           | 186.130  | n | 201.162          | 201.162  | am | (P-16023;97;A-11451) | 220.220 | n  | (P-6466;A-6500)    |
| 183.120 r         | (P-23)           | 186.135  | n | 201.163          | 201.163  | am | (P-16023;97;A-11451) | 220.230 | n  | (P-6466;A-6500)    |
| 183.125 r         | (P-23)           | 186.140  | n | 201.164          | 201.164  | am | (P-16023;97;A-11451) | 220.240 | n  | (P-6466;A-6500)    |
| 183.130 r         | (P-23)           | 186.145  | n | 201.169          | 201.169  | n  | (P-16023;97;A-11451) | 220.250 | n  | (P-6466;A-6500)    |
| 183.131 r         | (P-23)           | 186.150  | n | 201.180          | 201.180  | r  | (P-16023;97;A-11451) | 220.260 | n  | (P-6466;A-6500)    |
| 183.132 r         | (P-23)           | 186.155  | n | 201.181          | 201.181  | r  | (P-16023;97;A-11451) | 220.270 | n  | (P-6466;A-6500)    |
| 183.133 r         | (P-23)           | 186.160  | n | 201.187          | 201.187  | r  | (P-16023;97;A-11451) | 220.280 | n  | (P-6466;A-6500)    |
| 183.134 r         | (P-23)           | 186.165  | n | 201.207          | 201.207  | am | (P-16023;97;A-11451) | 220.290 | n  | (P-6466;A-6500)    |
| 183.135 r         | (P-23)           | 186.170  | n | 203.206          | 203.206  | am | (P-12823;97;A-5674)  | 240.102 | am | (P-2720)           |
| 183.140 r         | (P-23)           | 186.175  | n | 203.207          | 203.207  | am | (P-12823;97;A-5674)  | 240.104 | am | (P-2720)           |
| 183.145 r         | (P-23)           | 186.180  | n | 203.301          | 203.301  | am | (P-12823;97;A-5674)  | 240.105 | am | (P-2720)           |
| 183.150 r         | (P-23)           | 186.185  | n | 211.1467         | 211.1467 | n  | (P-3497)             | 240.106 | am | (P-2720)           |
| 183.155 r         | (P-23)           | 186.190  | n | 211.1520         | 211.1520 | n  | (P-3497)             | 240.107 | am | (P-2720)           |
| 183.160 r         | (P-23)           | 186.195  | n | 211.6420         | 211.6420 | n  | (P-3497)             | 240.162 | am | (P-2720)           |
| 183.165 r         | (P-23)           | 186.200  | n | 211.7150         | 211.7150 | am | (P-7450;A-11405)     | 240.163 | am | (P-2720)           |
| 183.170 r         | (P-23)           | 186.205  | n | 211.7200         | 211.7200 | n  | (P-3497)             | 240.164 | am | (P-2720)           |
| 183.205 r         | (P-23)           | 186.210  | n | 215.104          | 215.104  | am | (P-3674;A-11427)     | 240.165 | n  | (P-2720)           |
| 183.215 r         | (P-23)           | 186.215  | n | 215.109          | 215.109  | am | (P-3674;A-11427)     | 240.171 | am | (P-2720)           |
| 183.220 r         | (P-23)           | 186.220  | n | 215.204          | 215.204  | am | (P-3674;A-11427)     | 240.172 | am | (P-2720)           |
| 183.230 r         | (P-23)           | 186.225  | n | 215.205          | 215.205  | am | (P-3674;A-11427)     | 240.173 | am | (P-2720)           |
| 183.235 r         | (P-23)           | 186.230  | n | 215.206          | 215.206  | am | (P-3674;A-11427)     | 240.181 | n  | (P-2720)           |
| 183.240 r         | (P-23)           | 186.Ap.A | n | 215.207          | 215.207  | am | (P-3674;A-11427)     | 240.182 | n  | (P-2720)           |
| 183.245 r         | (P-23)           | 187.100  | n | 215.211          | 215.211  | am | (P-3674;A-11427)     | 240.183 | n  | (P-2720)           |
| 183.250 r         | (P-23)           | 187.102  | n | 215.212          | 215.212  | am | (P-3674;A-11427)     | 240.191 | n  | (P-2720)           |
| 183.255 r         | (P-23)           | 187.104  | n | 215.214          | 215.214  | r  | (P-3674;A-11427)     | 240.192 | n  | (P-2720)           |
| 183.305 r         | (P-23)           | 187.106  | n | 215.601          | 215.601  | r  | (P-3674;A-11427)     | 240.193 | n  | (P-2720)           |
| 183.310 r         | (P-23)           | 187.108  | n | 215.602          | 215.602  | r  | (P-3674;A-11427)     | Tb.A    | am | (P-2720)           |
| 183.315 r         | (P-23)           | 187.109  | n | 215.603          | 215.603  | r  | (P-3674;A-11427)     | Tb.B    | am | (P-2720)           |
| 183.320 r         | (P-23)           | 187.202  | n | 215.604          | 215.604  | r  | (P-3674;A-11427)     | Tb.C    | n  | (P-2720)           |
| 183.325 r         | (P-23)           | 187.300  | n | 215.605          | 215.605  | r  | (P-3674;A-11427)     | 251.101 | am | (P-8759;97/A-6652) |
| 183.330 r         | (P-23)           | 187.304  | n | 215.606          | 215.606  | r  | (P-3674;A-11427)     | 251.103 | am | (R-4512;M-6781)    |
| 183.335 r         | (P-23)           | 187.400  | n | 218.204          | 218.204  | am | (P-3556)             | 251.103 | am | (R-4512;M-6781)    |
| 183.340 r         | (P-23)           | 187.402  | n | 218.205          | 218.205  | am | (P-3556)             | 251.201 | am | (R-8759;97/A-6652) |
| 183.345 r         | (P-23)           | 187.404  | n | 218.210          | 218.210  | am | (P-3556)             | 251.203 | am | (R-4512;M-6781)    |
| 183.350 r         | (P-23)           | 187.406  | n | 218.211          | 218.211  | am | (P-3556)             | 251.203 | am | (R-8759;97/A-6652) |
| 183.355 r         | (P-23)           | 187.408  | n | 218.215          | 218.215  | n  | (P-3556)             | 251.208 | am | (R-4512;M-6781)    |
| 183.360 r         | (P-23)           | 187.410  | n | 218.216          | 218.216  | n  | (P-3556)             | 251.208 | am | (R-8759;97/A-6652) |
| 183.365 r         | (P-23)           | 187.412  | n | 218.217          | 218.217  | n  | (P-3556)             | 251.301 | am | (R-4512;M-6781)    |
| 183.370 r         | (P-23)           | 187.414  | n | 218.940          | 218.940  | am | (P-1091)             | 251.301 | am | (P-8759;97/A-6652) |
| 183.405 r         | (P-23)           | 187.416  | n | 219.182          | 219.182  | am | (P-3517)             |         |    |                    |

| Title   | 35  | (cont.) | (R-4512) (M-6781)   | (R-8759;97/A-6652)  | (R-4512) (M-6781)   | (P-13416/97/A-4356) |
|---------|-----|---------|---------------------|---------------------|---------------------|---------------------|
| 251.310 | am  |         | (P-10807)           | (P-10807)           | (P-13416/97/A-4356) | 352.104             |
| 252.102 | am  |         | (P-10807)           | (P-10807)           | (P-13416/97/A-4356) | 352.105             |
| 252.201 | am  |         | (P-10807)           | (P-10807)           | (P-13416/97/A-4356) | 352.106             |
| 252.206 | am  |         | (P-10807)           | (P-10807)           | (P-13416/97/A-4356) | 352.200             |
| 302.101 | am  |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 352.300             |
| 302.105 | am  |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 352.302             |
| 302.501 | am  |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 352.303             |
| 302.502 | am  |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 352.401             |
| 302.503 | am  |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 352.410             |
| 302.504 | am  |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 352.412             |
| 302.505 | am  |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 352.421             |
| 302.507 | am  |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 352.422             |
| 302.508 | am  |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 352.423             |
| 302.510 | n   |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 352.424             |
| 302.515 | n   |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 352.425             |
| 302.520 | n   |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 352.430             |
| 302.525 | n   |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 352.440             |
| 302.530 | n   |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 352.500             |
| 302.535 | n   |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 352.520             |
| 302.540 | n   |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 352.530             |
| 302.545 | n   |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 352.540             |
| 302.550 | n   |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 352.550             |
| 302.553 | n   |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 352.600             |
| 302.555 | n   |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 352.700             |
| 302.560 | n   |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 506.103             |
| 302.563 | n   |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 506.209             |
| 302.565 | n   |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 506.601             |
| 302.570 | n   |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 506.602             |
| 302.575 | n   |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 506.603             |
| 302.580 | n   |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 506.604             |
| 302.585 | n   |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 506.606             |
| 302.590 | n   |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 506.607             |
| 302.595 | n   |         | (P-8785;97/A-1356)  | (P-8785;97/A-1356)  | (P-13416/97/A-4356) | 506.608             |
| 303.443 | am  |         | (P-8829;97/A-1403)  | (P-8829;97/A-1403)  | (P-13416/97/A-4356) | 506.610             |
| 304.213 | am  |         | (P-9657)            | (P-9657)            | (P-13416/97/A-4356) | 506.611             |
| 304.214 | am  |         | (P-13500/97/A-3512) | (P-13500/97/A-3512) | (P-13416/97/A-4356) | 506.613             |
| 304.222 | am  |         | (P-8780/97/A-1351)  | (P-8780/97/A-1351)  | (P-13416/97/A-4356) | 506.614             |
| 310.501 | am  |         | (P-7465;A-11465)    | (P-7465;A-11465)    | (P-13416/97/A-4356) | 506.615             |
| 310.503 | am  |         | (P-7465;A-11465)    | (P-7465;A-11465)    | (P-13416/97/A-4356) | 506.602             |
| 310.510 | am  |         | (P-7465;A-11465)    | (P-7465;A-11465)    | (P-13416/97/A-4356) | 506.604             |
| 310.512 | am  |         | (P-7465;A-11465)    | (P-7465;A-11465)    | (P-13416/97/A-4356) | 506.608             |
| 310.542 | am  |         | (P-7465;A-11465)    | (P-7465;A-11465)    | (P-13416/97/A-4356) | 506.610             |
| 310.612 | am  |         | (P-7465;A-11465)    | (P-7465;A-11465)    | (P-13416/97/A-4356) | 506.611             |
| 310.921 | #,n |         | (P-7465;A-11465)    | (P-7465;A-11465)    | (P-13416/97/A-4356) | 506.613             |
| 310.922 | #,n |         | (P-7465;A-11465)    | (P-7465;A-11465)    | (P-13416/97/A-4356) | 506.614             |
| 310.923 | n   |         | (P-7465;A-11465)    | (P-7465;A-11465)    | (P-13416/97/A-4356) | 506.615             |
| 310.924 | n   |         | (P-7465;A-11465)    | (P-7465;A-11465)    | (P-13416/97/A-4356) | 506.602             |
| 352.100 | n   |         | (P-13416/97/A-4356) | (P-13416/97/A-4356) | (P-13416/97/A-4356) | 506.611             |
| 352.101 | n   |         | (P-13416/97/A-4356) | (P-13416/97/A-4356) | (P-13416/97/A-4356) | 506.613             |
| 352.102 | n   |         | (P-13416/97/A-4356) | (P-13416/97/A-4356) | (P-13416/97/A-4356) | 506.614             |
| 352.103 | n   |         | (P-13416/97/A-4356) | (P-13416/97/A-4356) | (P-13416/97/A-4356) | 506.615             |

[illegible]





| TITLE 35 (cont.) |                      | TITLE 36   |                  | TITLE 38 (cont.) |                     |
|------------------|----------------------|------------|------------------|------------------|---------------------|
| 740.725 n        | (P-7483)             | 110.1 am   | (P-3258)(E-1485) | 160.50 am        | (P-3314)(E-1543)    |
| 740.730 n        | (P-7483)             | 110.10 am  | (P-3258)(E-1485) | 160.55 n         | (P-3314)(E-1543)    |
| 742.210 am       | (P-16982/97;A-10847) | 110.15 n   | (P-3258)(E-1485) | 160.60 am        | (P-3314)(E-1543)    |
| 742.310 am       | (P-16982/97;A-10847) | 110.20 am  | (P-3258)(E-1485) | 160.70 am        | (P-3314)(E-1543)    |
| 742.900 am       | (P-16982/97;A-10847) | 110.30 am  | (P-3258)(E-1485) | 160.80 am        | (P-3314)(E-1543)    |
| 742.Ap.A         |                      | 110.40 am  | (P-3258)(E-1485) | 160.90 am        | (P-3314)(E-1543)    |
| Tb.H             |                      | 110.50 am  | (P-3258)(E-1485) | 160.100 am       | (P-3314)(E-1543)    |
| 742.Ap.B         |                      | 110.60 am  | (P-3258)(E-1485) | 160.110 am       | (P-3314)(E-1543)    |
| Tb.C             |                      | 110.65 am  | (P-3258)(E-1485) | 160.120 am       | (P-3314)(E-1543)    |
| Tb.D             |                      | 110.70 am  | (P-3258)(E-1485) | 160.130 am       | (P-3314)(E-1543)    |
| 742.Ap.C         |                      | 110.80 am  | (P-3258)(E-1485) | 160.140 am       | (P-3314)(E-1543)    |
| Tb.I             |                      | 110.90 am  | (P-3258)(E-1485) | 160.550 am       | (P-3314)(E-1543)    |
| 811.309 am       | (P-16982/97;A-10847) | 110.100 am | (P-3258)(E-1485) | 160.160 am       | (P-3314)(E-1543)    |
| 811.310 am       | (P-4255;A-11491)     | 110.110 am | (P-3258)(E-1485) | 160.170 am       | (P-3314)(E-1543)    |
| 811.312 am       | (P-4255;A-11491)     | 110.120 am | (P-3258)(E-1485) | 160.180 am       | (P-3314)(E-1543)    |
| 811.319 am       | (P-4255;A-11491)     | 110.130 am | (P-3258)(E-1485) | 160.190 am       | (P-3314)(E-1543)    |
| 811.321 am       | (P-4255;A-11491)     | 110.140 am | (P-3258)(E-1485) | 160.200 am       | (P-3314)(E-1543)    |
| 813.103 am       | (P-4247;A-11483)     | 110.150 am | (P-3258)(E-1485) | 160.210 am       | (P-3314)(E-1543)    |
| 813.501 am       | (P-4247;A-11483)     | 110.160 am | (P-3258)(E-1485) | 160.220 am       | (P-3314)(E-1543)    |
| 813.502 am       | (P-4247;A-11483)     | 110.170 am | (P-3258)(E-1485) | 160.230 am       | (P-3314)(E-1543)    |
| 813.503 am       | (P-4247;A-11483)     | 110.180 am | (P-3258)(E-1485) | 160.240 n        | (P-3314)(E-1543)    |
| 813.504 am       | (P-4247;A-11483)     | 110.190 am | (P-3258)(E-1485) | 160.250 n        | (P-3314)(E-1543)    |
| 830.203 am       | (P-11367)            | 110.200 am | (P-3258)(E-1485) | 160.260 n        | (P-3314)(E-1543)    |
| 831.107 am       | (P-11361)            | 110.215 am | (P-3258)(E-1485) | 190.70 am        | (P-6012)            |
| 831.109 am       | (P-11361)            | 110.220 am | (P-3258)(E-1485) | 390.10 r         | (P-115;A-6705)      |
| 848.104 am       | (P-4240;A-11420)     | 110.225 am | (P-3258)(E-1485) | 390.20 r         | (P-115;A-6705)      |
| 885.100 n        | (P-10790)            | 110.230 am | (P-3258)(E-1485) | 390.30 r         | (P-115;A-6705)      |
| 885.105 n        | (P-10790)            | 110.235 n  | (P-3258)(E-1485) | 390.40 r         | (P-115;A-6705)      |
| 885.110 n        | (P-10790)            | 110.240 am | (P-3258)(E-1485) | 390.50 r         | (P-115;A-6705)      |
| 885.200 n        | (P-10790)            | 110.250 n  | (P-3258)(E-1485) | 390.60 r         | (P-115;A-6705)      |
| 885.205 n        | (P-10790)            | 110.260 n  | (P-3258)(E-1485) | 390.70 r         | (P-115;A-6705)      |
| 885.210 n        | (P-10790)            | Tb.A       | (P-3258)(E-1485) | 390.80 r         | (P-115;A-6705)      |
| 885.215 n        | (P-10790)            | Tb.B       | (P-3258)(E-1485) | 390.90 r         | (P-115;A-6705)      |
| * 885.225 n      | (P-10790)            | 130.50 am  | (P-6019)         | 390.100 r        | (P-115;A-6705)      |
| 885.230 n        | (P-10790)            | 140.10 am  | (P-3300)(E-1528) | 500.200 am       | (P-16941/97;A-6642) |
| 885.235 n        | (P-10790)            | 140.20 am  | (P-3300)(E-1528) | 500.230 am       | (P-16941/97;A-6642) |
| 885.240 n        | (P-10790)            | 140.30 am  | (P-3300)(E-1528) | 800.10 r         | (P-3792/97;A-6659)  |
| 885.245 n        | (P-10790)            | 140.40 am  | (P-3300)(E-1528) | 800.20 r         | (P-3792/97;A-6659)  |
| 885.250 n        | (P-10790)            | 140.50 am  | (P-3300)(E-1528) | 800.30 am        | (P-3792/97;A-6659)  |
| 885.255 n        | (P-10790)            | 140.60 am  | (P-3300)(E-1528) | 800.40 am        | (P-3792/97;A-6659)  |
| 885.260 n        | (P-10790)            | 140.70 am  | (P-3300)(E-1528) | 800.50 am        | (P-3792/97;A-6659)  |
| 885.300 n        | (P-10790)            | 140.80 am  | (P-3300)(E-1528) | 800.60 am        | (P-3792/97;A-6659)  |
| 885.305 n        | (P-10790)            | 140.90 am  | (P-3300)(E-1528) | 900.10 am        | (P-8251)            |
| 885.310 n        | (P-10790)            | 140.100 am | (P-3300)(E-1528) | 900.20 am        | (P-8251)            |
| 885.315 n        | (P-10790)            | 140.110 am | (P-3300)(E-1528) | 900.30 am        | (P-8251)            |
| 885.320 n        | (P-10790)            | 140.120 n  | (P-3300)(E-1528) | 900.70 am        | (P-8251)            |
| 885.325 n        | (P-10790)            | 140.130 n  | (P-3300)(E-1528) | 900.80 am        | (P-8251)            |
| 885.330 n        | (P-10790)            | 160.01 n   | (P-3314)(E-1543) | 900.100 am       | (P-8251)            |
| 885.400 n        | (P-10790)            | 160.10 am  | (P-3314)(E-1543) | 900.120 am       | (P-8251)            |
| 885.405 n        | (P-10790)            | 160.20 am  | (P-3314)(E-1543) | 900.160 am       | (P-8251)            |
|                  |                      | 160.30 am  | (P-3314)(E-1543) | 900.180 am       | (P-8251)            |
|                  |                      | 160.40 am  | (P-3314)(E-1543) | 900.210 am       | (P-8251)            |

|                     |                  |                   |                   |
|---------------------|------------------|-------------------|-------------------|
| Title 38 (cont.)    |                  | Title 44 (cont.)  |                   |
| 1455.10 n (E-8534)  | 1.05 n (P-8154)  | 1.950 r (P-8067)  | 1.1620 r (P-8067) |
| 1455.400 n (E-8534) | 1.08 n (P-8154)  | 1.960 r (P-8067)  | 1.1630 r (P-8067) |
| 1455.405 n (E-8534) | 1.10 n (P-8154)  | 1.1000 r (P-8067) | 1.1640 r (P-8067) |
| 1455.405 n (E-8534) | 1.15 n (P-8154)  | 1.1005 n (P-8154) | 1.1650 r (P-8067) |
| 1455.410 n (E-8534) | 1.25 n (P-8154)  | 1.1010 r (P-8067) | 1.1700 r (P-8067) |
| 1455.415 n (E-8534) | 1.30 n (P-8067)  | 1.1020 n (P-8154) | 1.1710 r (P-8067) |
| 1455.420 n (E-8534) | 1.100 r (P-8067) | 1.1030 r (P-8067) | 1.1720 r (P-8067) |
| 1455.425 n (E-8534) | 1.110 r (P-8067) | 1.1040 r (P-8067) | 1.1730 r (P-8067) |
| 1455.430 n (E-8534) | 1.120 r (P-8067) | 1.1050 r (P-8154) | 1.1740 r (P-8067) |
| 1455.435 n (E-8534) | 1.130 r (P-8067) | 1.1060 r (P-8067) | 1.1800 r (P-8067) |
| 1455.440 n (E-8534) | 1.200 r (P-8067) | 1.1070 r (P-8154) | 1.1810 r (P-8067) |
| 1455.445 n (E-8534) | 1.210 r (P-8067) | 1.1075 n (P-8154) | 1.1820 r (P-8067) |
| 1455.450 n (E-8534) | 1.220 r (P-8067) | 1.1100 r (P-8067) | 1.1830 r (P-8067) |
| 1455.455 n (E-8534) | 1.230 r (P-8067) | 1.1110 r (P-8067) | 1.1840 r (P-8067) |
| 1455.460 n (E-8534) | 1.240 r (P-8067) | 1.1120 r (P-8067) | 1.1850 r (P-8067) |
| 1455.465 n (E-8534) | 1.300 r (P-8067) | 1.1130 r (P-8067) | 1.1860 r (P-8067) |
| 1455.470 n (E-8534) | 1.310 r (P-8067) | 1.1140 r (P-8067) | 1.1900 r (P-8067) |
| 1455.475 n (E-8534) | 1.320 r (P-8067) | 1.1150 r (P-8067) | 1.1910 r (P-8067) |
| 1455.480 n (E-8534) | 1.330 r (P-8067) | 1.1160 r (P-8067) | 1.1920 r (P-8067) |
| 1455.485 n (E-8534) | 1.340 r (P-8067) | 1.1170 r (P-8067) | 1.1930 r (P-8067) |
| 1455.487 n (E-8534) | 1.350 r (P-8067) | 1.1180 r (P-8067) | 1.2000 r (P-8067) |
| 1455.490 n (E-8534) | 1.400 r (P-8067) | 1.1190 r (P-8067) | 1.2005 n (P-8154) |
| 1455.495 n (E-8534) | 1.410 r (P-8067) | 1.1200 r (P-8067) | 1.2010 r (P-8067) |
| 1455.500 n (E-8534) | 1.420 r (P-8067) | 1.1210 r (P-8067) | 1.2012 n (P-8154) |
| 1455.505 n (E-8534) | 1.500 r (P-8067) | 1.1220 r (P-8067) | 1.2015 n (P-8154) |
| 1455.510 n (E-8534) | 1.510 r (P-8067) | 1.1230 r (P-8067) | 1.2020 r (P-8067) |
| 1455.515 n (E-8534) | 1.520 n (P-8154) | 1.1240 r (P-8067) | 1.2025 n (P-8154) |
| 1455.520 n (P-8154) | 1.525 n (P-8154) | 1.1250 r (P-8067) | 1.2030 r (P-8067) |
| 1455.525 n (P-8154) | 1.530 r (P-8067) | 1.1260 r (P-8067) | 1.2035 n (P-8154) |
| 1455.530 n (P-8154) | 1.540 r (P-8067) | 1.1270 r (P-8067) | 1.2036 n (P-8154) |
| 1455.535 n (P-8154) | 1.550 r (P-8067) | 1.1280 r (P-8067) | 1.2037 n (P-8154) |
| 1455.540 n (P-8154) | 1.560 r (P-8067) | 1.1290 r (P-8067) | 1.2038 n (P-8154) |
| 1455.545 n (P-8154) | 1.600 r (P-8067) | 1.1300 r (P-8067) | 1.2040 r (P-8067) |
| 1455.550 n (P-8154) | 1.610 r (P-8067) | 1.1310 r (P-8067) | 1.2043 n (P-8154) |
| 1455.555 n (P-8154) | 1.620 r (P-8067) | 1.1320 r (P-8067) | 1.2044 n (P-8154) |
| 1455.560 n (P-8154) | 1.620 r (P-8067) | 1.1330 r (P-8067) | 1.2045 n (P-8154) |
| 1455.565 n (P-8154) | 1.630 r (P-8067) | 1.1340 r (P-8067) | 1.2046 n (P-8154) |
| 1455.570 n (P-8154) | 1.630 r (P-8067) | 1.1350 r (P-8067) | 1.2047 n (P-8154) |
| 1455.575 n (P-8154) | 1.700 r (P-8067) | 1.1360 r (P-8067) | 1.2050 n (P-8154) |
| 1455.580 n (P-8154) | 1.710 r (P-8067) | 1.1370 r (P-8067) | 1.2055 n (P-8154) |
| 1455.585 n (P-8154) | 1.720 r (P-8067) | 1.1380 r (P-8067) | 1.2060 n (P-8154) |
| 1455.590 n (P-8154) | 1.730 r (P-8067) | 1.1390 r (P-8067) | 1.2100 r (P-8067) |
| 1455.595 n (P-8154) | 1.740 r (P-8067) | 1.1400 r (P-8067) | 1.2120 r (P-8067) |
| 1455.600 n (P-8154) | 1.750 r (P-8067) | 1.1410 r (P-8067) | 1.2130 r (P-8067) |
| 1455.605 n (P-8154) | 1.760 r (P-8067) | 1.1420 r (P-8067) | 1.2140 r (P-8067) |
| 1455.610 n (P-8154) | 1.800 r (P-8067) | 1.1430 r (P-8067) | 1.2200 r (P-8067) |
| 1455.615 n (P-8154) | 1.810 r (P-8067) | 1.1440 r (P-8067) | 1.2210 r (P-8067) |
| 1455.620 n (P-8154) | 1.820 r (P-8067) | 1.1450 r (P-8067) | 1.2215 r (P-8067) |
| 1455.625 n (P-8154) | 1.830 r (P-8067) | 1.1460 r (P-8067) | 1.2220 r (P-8067) |
| 1455.630 n (P-8154) | 1.840 r (P-8067) | 1.1470 r (P-8067) | 1.2225 r (P-8067) |
| 1455.635 n (P-8154) | 1.840 r (P-8067) | 1.1480 r (P-8067) | 1.2225 r (P-8067) |
| 1455.640 n (P-8154) | 1.900 r (P-8067) | 1.1490 r (P-8067) | 1.2225 r (P-8067) |
| 1455.645 n (P-8154) | 1.910 r (P-8067) | 1.1500 r (P-8067) | 1.2225 r (P-8067) |
| 1455.650 n (P-8154) | 1.920 r (P-8067) | 1.1510 r (P-8067) | 1.2225 r (P-8067) |
| 1455.655 n (P-8154) | 1.930 r (P-8067) | 1.1520 r (P-8067) | 1.2225 r (P-8067) |
| 1455.660 n (P-8154) | 1.940 r (P-8067) | 1.1525 n (P-8154) | 1.2225 r (P-8067) |
| 1455.665 n (P-8154) | 1.940 r (P-8067) | 1.1530 r (P-8067) | 1.2225 r (P-8067) |
| 1455.670 n (P-8154) | 1.940 r (P-8067) | 1.1540 r (P-8067) | 1.2225 r (P-8067) |
| 1455.675 n (P-8154) | 1.940 r (P-8067) | 1.1550 n (P-8154) | 1.2225 r (P-8067) |
| 1455.680 n (P-8154) | 1.940 r (P-8067) | 1.1560 r (P-8154) | 1.2225 r (P-8067) |
| 1455.685 n (P-8154) | 1.940 r (P-8067) | 1.1570 n (P-8154) | 1.2225 r (P-8067) |
| 1455.690 n (P-8154) | 1.940 r (P-8067) | 1.1580 n (P-8154) | 1.2225 r (P-8067) |
| 1455.695 n (P-8154) | 1.940 r (P-8067) | 1.1590 n (P-8154) | 1.2225 r (P-8067) |
| 1455.700 n (P-8154) | 1.940 r (P-8067) | 1.1600 r (P-8067) | 1.2225 r (P-8067) |
| 1455.705 n (P-8154) | 1.940 r (P-8067) | 1.1610 r (P-8067) | 1.2225 r (P-8067) |
| 1455.710 n (P-8154) | 1.940 r (P-8067) | 1.1620 r (P-8067) | 1.2225 r (P-8067) |
| 1455.715 n (P-8154) | 1.940 r (P-8067) | 1.1630 r (P-8067) | 1.2225 r (P-8067) |
| 1455.720 n (P-8154) | 1.940 r (P-8067) | 1.1640 r (P-8067) | 1.2225 r (P-8067) |
| 1455.725 n (P-8154) | 1.940 r (P-8067) | 1.1650 r (P-8067) | 1.2225 r (P-8067) |
| 1455.730 n (P-8154) | 1.940 r (P-8067) | 1.1660 r (P-8067) | 1.2225 r (P-8067) |
| 1455.735 n (P-8154) | 1.940 r (P-8067) | 1.1670 r (P-8067) | 1.2225 r (P-8067) |
| 1455.740 n (P-8154) | 1.940 r (P-8067) | 1.1680 r (P-8067) | 1.2225 r (P-8067) |
| 1455.745 n (P-8154) | 1.940 r (P-8067) | 1.1690 r (P-8067) | 1.2225 r (P-8067) |
| 1455.750 n (P-8154) | 1.940 r (P-8067) | 1.1700 r (P-8067) | 1.2225 r (P-8067) |
| 1455.755 n (P-8154) | 1.940 r (P-8067) | 1.1710 r (P-8067) | 1.2225 r (P-8067) |
| 1455.760 n (P-8154) | 1.940 r (P-8067) | 1.1720 r (P-8067) | 1.2225 r (P-8067) |
| 1455.765 n (P-8154) | 1.940 r (P-8067) | 1.1730 r (P-8067) | 1.2225 r (P-8067) |
| 1455.770 n (P-8154) | 1.940 r (P-8067) | 1.1740 r (P-8067) | 1.2225 r (P-8067) |
| 1455.775 n (P-8154) | 1.940 r (P-8067) | 1.1750 r (P-8067) | 1.2225 r (P-8067) |
| 1455.780 n (P-8154) | 1.940 r (P-8067) | 1.1760 r (P-8067) | 1.2225 r (P-8067) |
| 1455.785 n (P-8154) | 1.940 r (P-8067) | 1.1770 r (P-8067) | 1.2225 r (P-8067) |
| 1455.790 n (P-8154) | 1.940 r (P-8067) | 1.1780 r (P-8067) | 1.2225 r (P-8067) |
| 1455.795 n (P-8154) | 1.940 r (P-8067) | 1.1790 r (P-8067) | 1.2225 r (P-8067) |
| 1455.800 n (P-8154) | 1.940 r (P-8067) | 1.1800 r (P-8067) | 1.2225 r (P-8067) |
| 1455.805 n (P-8154) | 1.940 r (P-8067) | 1.1810 r (P-8067) | 1.2225 r (P-8067) |
| 1455.810 n (P-8154) | 1.940 r (P-8067) | 1.1820 r (P-8067) | 1.2225 r (P-8067) |
| 1455.815 n (P-8154) | 1.940 r (P-8067) | 1.1830 r (P-8067) | 1.2225 r (P-8067) |
| 1455.820 n (P-8154) | 1.940 r (P-8067) | 1.1840 r (P-8067) | 1.2225 r (P-8067) |
| 1455.825 n (P-8154) | 1.940 r (P-8067) | 1.1850 r (P-8067) | 1.2225 r (P-8067) |
| 1455.830 n (P-8154) | 1.940 r (P-8067) | 1.1860 r (P-8067) | 1.2225 r (P-8067) |
| 1455.835 n (P-8154) | 1.940 r (P-8067) | 1.1870 r (P-8067) | 1.2225 r (P-8067) |
| 1455.840 n (P-8154) | 1.940 r (P-8067) | 1.1880 r (P-8067) | 1.2225 r (P-8067) |
| 1455.845 n (P-8154) | 1.940 r (P-8067) | 1.1890 r (P-8067) | 1.2225 r (P-8067) |
| 1455.850 n (P-8154) | 1.940 r (P-8067) | 1.1900 r (P-8067) | 1.2225 r (P-8067) |
| 1455.855 n (P-8154) | 1.940 r (P-8067) | 1.1910 r (P-8067) | 1.2225 r (P-8067) |
| 1455.860 n (P-8154) | 1.940 r (P-8067) | 1.1920 r (P-8067) | 1.2225 r (P-8067) |
| 1455.865 n (P-8154) | 1.940 r (P-8067) | 1.1930 r (P-8067) | 1.2225 r (P-8067) |
| 1455.870 n (P-8154) | 1.940 r (P-8067) | 1.1940 r (P-8067) | 1.2225 r (P-8067) |
| 1455.875 n (P-8154) | 1.940 r (P-8067) | 1.1950 r (P-8067) | 1.2225 r (P-8067) |
| 1455.880 n (P-8154) | 1.940 r (P-8067) | 1.1960 r (P-8067) | 1.2225 r (P-8067) |
| 1455.885 n (P-8154) | 1.940 r (P-8067) | 1.1970 r (P-8067) | 1.2225 r (P-8067) |
| 1455.890 n (P-8154) | 1.940 r (P-8067) | 1.1980 r (P-8067) | 1.2225 r (P-8067) |
| 1455.895 n (P-8154) | 1.940 r (P-8067) | 1.1990 r (P-8067) | 1.2225 r (P-8067) |
| 1455.900 n (P-8154) | 1.940 r (P-8067) | 1.2000 r (P-8067) | 1.2225 r (P-8067) |
| 1455.905 n (P-8154) | 1.940 r (P-8067) | 1.2010 r (P-8067) | 1.2225 r (P-8067) |
| 1455.910 n (P-8154) | 1.940 r (P-8067) | 1.2020 r (P-8067) | 1.2225 r (P-8067) |
| 1455.915 n (P-8154) | 1.940 r (P-8067) | 1.2030 r (P-8067) | 1.2225 r (P-8067) |
| 1455.920 n (P-8154) | 1.940 r (P-8067) | 1.2040 r (P-8067) | 1.2225 r (P-8067) |
| 1455.925 n (P-8154) | 1.940 r (P-8067) | 1.2050 r (P-8067) | 1.2225 r (P-8067) |
| 1455.930 n (P-8154) | 1.940 r (P-8067) | 1.2060 r (P-8067) | 1.2225 r (P-8067) |
| 1455.935 n (P-8154) | 1.940 r (P-8067) | 1.2070 r (P-8067) | 1.2225 r (P-8067) |
| 1455.940 n (P-8154) | 1.940 r (P-8067) | 1.2080 r (P-8067) | 1.2225 r (P-8067) |
| 1455.945 n (P-8154) | 1.940 r (P-8067) | 1.2090 r (P-8067) | 1.2225 r (P-8067) |
| 1455.950 n (P-8154) | 1.940 r (P-8067) | 1.2100 r (P-8067) | 1.2225 r (P-8067) |
| 1455.955 n (P-8154) | 1.940 r (P-8067) | 1.2110 r (P-8067) | 1.2225 r (P-8067) |
| 1455.960 n (P-8154) | 1.940 r (P-8067) | 1.2120 r (P-8067) | 1.2225 r (P-8067) |
| 1455.965 n (P-8154) | 1.940 r (P-8067) | 1.2130 r (P-8067) | 1.2225 r (P-8067) |
| 1455.970 n (P-8154) | 1.940 r (P-8067) | 1.2140 r (P-8067) | 1.2225 r (P-8067) |
| 1455.975 n (P-8154) | 1.940 r (P-8067) | 1.2150 r (P-8067) | 1.2225 r (P-8067) |
| 1455.980 n (P-8154) | 1.940 r (P-8067) | 1.2160 r (P-8067) | 1.2225 r (P-8067) |
| 1455.985 n (P-8154) | 1.940 r (P-8067) | 1.2170 r (P-8067) | 1.2225 r (P-8067) |
| 1455.990 n (P-8154) | 1.940 r (P-8067) | 1.2180 r (P-8067) | 1.2225 r (P-8067) |
| 1455.995 n (P-8154) | 1.940 r (P-8067) | 1.2190 r (P-8067) | 1.2225 r (P-8067) |
| 1456.000 n (P-8154) | 1.940 r (P-8067) | 1.2200 r (P-8067) | 1.2225 r (P-8067) |
| 1456.005 n (P-8154) | 1.940 r (P-8067) | 1.2210 r (P-8067) | 1.2225 r (P-8067) |
| 1456.010 n (P-8154) | 1.940 r (P-8067) | 1.2220 r (P-8067) | 1.2225 r (P-8067) |
| 1456.015 n (P-8154) | 1.940 r (P-8067) | 1.2230 r (P-8067) | 1.2225 r (P-8067) |
| 1456.020 n (P-8154) | 1.940 r (P-8067) | 1.2240 r (P-8067) | 1.2225 r (P-8067) |
| 1456.025 n (P-8154) | 1.940 r (P-8067) | 1.2250 r (P-8067) | 1.2225 r (P-8067) |
| 1456.030 n (P-8154) | 1.940 r (P-8067) | 1.2260 r (P-8067) | 1.2225 r (P-8067) |
| 1456.035 n (P-8154) | 1.940 r (P-8067) | 1.2270 r (P-8067) | 1.2225 r (P-8067) |
| 1456.040 n (P-8154) | 1.940 r (P-8067) | 1.2280 r (P-8067) | 1.2225 r (P-8067) |
| 1456.045 n (P-8154) | 1.940 r (P-8067) | 1.2290 r (P-8067) | 1.2225 r (P-8067) |
| 1456.050 n (P-8154) | 1.940 r (P-8067) | 1.2300 r (P-8067) | 1.2225 r (P-8067) |
| 1456.055 n (P-8154) | 1.940 r (P-8067) | 1.2310 r (P-8067) | 1.2225 r (P-8067) |
| 1456.060 n (P-8154) | 1.940 r (P-8067) | 1.2320 r (P-8067) | 1.2225 r (P-8067) |
| 1456.065 n (P-8154) | 1.940 r (P-8067) | 1.2330 r (P-8067) | 1.2225 r (P-8067) |
| 1456.070 n (P-8154) | 1.940 r (P-8067) | 1.2340 r (P-8067) | 1.2225 r (P-8067) |
| 1456.075 n (P-8154) | 1.940 r (P-8067) | 1.2350 r (P-8067) | 1.2225 r (P-8067) |
| 1456.080 n (P-8154) | 1.940 r (P-8067) | 1.2360 r (P-8067) | 1.2225 r (P-8067) |
| 1456.085 n (P-8154) | 1.940 r (P-8067) | 1.2370 r (P-8067) | 1.2225 r (P-8067) |
| 1456.090 n (P-8154) | 1.940 r (P-8067) | 1.2380 r (P-8067) | 1.2225 r (P-8067) |
| 1456.095 n (P-8154) | 1.940 r (P-8067) | 1.2390 r (P-8067) | 1.2225 r (P-8067) |
| 1456.100 n (P-8154) | 1.940 r (P-8067) | 1.2400 r (P-8067) | 1.2225 r (P-8067) |
| 1456.105 n (P-8154) | 1.940 r (P-8067) | 1.2410 r (P-8067) | 1.2225 r (P-8067) |
| 1456.110 n (P-8154) | 1.940 r (P-8067) | 1.2420 r (P-8067) | 1.2225 r (P-8067) |
| 1456.115 n (P-8154) | 1.940 r (P-8067) | 1.2430 r (P-8067) | 1.2225 r (P-8067) |
| 1456.120 n (P-8154) | 1.940 r (P-8067) | 1.2440 r (P-8067) | 1.2225 r (P-8067) |
| 1456.125 n (P-8154) | 1.940 r (P-8067) | 1.2450 r (P-8067) | 1.2225 r (P-8067) |
| 1456.130 n (P-8154) | 1.940 r (P-8067) | 1.2460 r (P-8067) | 1.2225 r (P-8067) |
| 1456.135 n (P-8154) | 1.940 r (P-8067) | 1.2470 r (P-8067) | 1.2225 r (P-8067) |
| 1456.140 n (P-8154) | 1.940 r (P-8067) | 1.2480 r (P-8067) | 1.2225 r (P-8067) |
| 1456.145 n (P-8154) | 1.940 r (P-8067) | 1.                |                   |



Title 44 (cont.)

|        |   |          |         |   |           |
|--------|---|----------|---------|---|-----------|
| 1.2225 | r | (P-8067) | 1.7025  | n | (P-8154)  |
| 1.2230 | r | (P-8067) | 1.7030  | n | (P-8154)  |
| 1.2235 | r | (P-8067) | 10.05   | n | (P-8933)  |
| 1.2240 | r | (P-8067) | 10.10   | n | (P-8933)  |
| 1.2245 | r | (P-8067) | 10.20   | n | (P-8933)  |
| 1.2250 | r | (P-8067) | 10.21   | n | (P-8933)  |
| 1.2300 | r | (P-8067) | 10.22   | n | (P-8933)  |
| 1.2310 | r | (P-8067) | 10.23   | n | (P-8933)  |
| 1.2320 | r | (P-8067) | 10.24   | n | (P-8933)  |
| 1.2330 | r | (P-8067) | 10.25   | n | (P-8933)  |
| 1.2340 | r | (P-8067) | 10.30   | n | (P-8933)  |
| 1.2350 | r | (P-8067) | 10.35   | n | (P-8933)  |
| 1.2360 | r | (P-8067) | 10.40   | n | (P-8933)  |
| 1.2400 | r | (P-8067) | 10.50   | n | (P-8933)  |
| 1.2410 | r | (P-8067) | 10.55   | n | (P-8933)  |
| 1.2420 | r | (P-8067) | 10.60   | n | (P-8933)  |
| 1.2430 | r | (P-8067) | 10.61   | n | (P-8933)  |
| 1.2440 | r | (P-8067) | 10.62   | n | (P-8933)  |
| 1.2450 | r | (P-8067) | 10.63   | n | (P-8933)  |
| 1.2460 | r | (P-8067) | 10.64   | n | (P-8933)  |
| 1.2470 | r | (P-8067) | 10.65   | n | (P-8933)  |
| 1.2570 | n | (P-8154) | 10.66   | n | (P-8933)  |
| 1.2800 | n | (P-8154) | 10.67   | n | (P-8933)  |
| 1.3005 | n | (P-8154) | 10.68   | n | (P-8933)  |
| 1.4005 | n | (P-8154) | 10.69   | n | (P-8933)  |
| 1.4505 | n | (P-8154) | 10.70   | n | (P-8933)  |
| 1.4510 | n | (P-8154) | 10.71   | n | (P-8933)  |
| 1.4530 | n | (P-8154) | 10.72   | n | (P-8933)  |
| 1.4535 | n | (P-8154) | 10.80   | n | (P-8933)  |
| 1.4540 | n | (P-8154) | 10.90   | n | (P-8933)  |
| 1.4545 | n | (P-8154) | 10.91   | n | (P-8933)  |
| 1.4570 | n | (P-8154) | 10.99   | n | (P-8933)  |
| 1.5013 | n | (P-8154) | 10.100  | n | (P-8933)  |
| 1.5015 | n | (P-8154) | 525.10  | r | (P-10814) |
| 1.5020 | n | (P-8154) | 525.20  | r | (P-10814) |
| 1.5030 | n | (P-8154) | 525.50  | r | (P-10814) |
| 1.5035 | n | (P-8154) | 525.60  | r | (P-10814) |
| 1.5310 | n | (P-8154) | 525.70  | r | (P-10814) |
| 1.5315 | n | (P-8154) | 525.100 | r | (P-10814) |
| 1.5510 | n | (P-8154) | 525.110 | r | (P-10814) |
| 1.5520 | n | (P-8154) | 525.200 | r | (P-10814) |
| 1.5530 | n | (P-8154) | 525.300 | r | (P-10814) |
| 1.5540 | n | (P-8154) | 525.310 | r | (P-10814) |
| 1.5550 | n | (P-8154) | 525.320 | r | (P-10814) |
| 1.6010 | n | (P-8154) | 525.330 | r | (P-10814) |
| 1.6500 | n | (P-8154) | 525.340 | r | (P-10814) |
| 1.6510 | n | (P-8154) | 525.350 | r | (P-10814) |
| 1.6520 | n | (P-8154) | 525.400 | r | (P-10814) |
| 1.6530 | n | (P-8154) | 525.410 | r | (P-10814) |
| 1.6535 | n | (P-8154) | 525.500 | r | (P-10814) |
| 1.7000 | n | (P-8154) | 525.510 | r | (P-10814) |
| 1.7010 | n | (P-8154) | 525.520 | r | (P-10814) |
| 1.7015 | n | (P-8154) | 525.530 | r | (P-10814) |
| 1.7020 | n | (P-8154) | 525.540 | r | (P-10814) |

Title 44 (cont.)

|          |   |           |          |    |                   |
|----------|---|-----------|----------|----|-------------------|
| 525.600  | r | (P-10814) | 526.4005 | n  | (P-10719)         |
| 525.610  | r | (P-10814) | 526.4010 | n  | (P-10719)         |
| 525.620  | r | (P-10814) | 526.4015 | n  | (P-10719)         |
| 525.630  | r | (P-10814) | 526.4020 | n  | (P-10719)         |
| 525.640  | r | (P-10814) | 526.4025 | n  | (P-10719)         |
| 525.650  | r | (P-10814) | 526.4030 | n  | (P-10719)         |
| 525.660  | r | (P-10814) | 526.4035 | n  | (P-10719)         |
| 525.670  | r | (P-10814) | 526.4040 | n  | (P-10719)         |
| 525.700  | r | (P-10814) | 526.4505 | n  | (P-10719)         |
| 525.710  | r | (P-10814) | 526.4510 | n  | (P-10719)         |
| 526.01   | n | (P-10719) | 526.4530 | n  | (P-10719)         |
| 526.03   | n | (P-10719) | 526.4535 | n  | (P-10719)         |
| 526.05   | n | (P-10719) | 526.4540 | n  | (P-10719)         |
| 526.08   | n | (P-10719) | 526.4545 | n  | (P-10719)         |
| 526.10   | n | (P-10719) | 526.4570 | n  | (P-10719)         |
| 526.15   | n | (P-10719) | 526.5020 | n  | (P-10719)         |
| 526.25   | n | (P-10719) | 526.5023 | n  | (P-10719)         |
| 526.525  | n | (P-10719) | 526.5030 | n  | (P-10719)         |
| 526.1010 | n | (P-10719) | 526.5035 | n  | (P-10719)         |
| 526.1011 | n | (P-10719) | 526.5325 | n  | (P-10719)         |
| 526.1012 | n | (P-10719) | 526.5520 | n  | (P-10719)         |
| 526.1020 | n | (P-10719) | 526.5530 | n  | (P-10719)         |
| 526.1030 | n | (P-10719) | 526.5540 | n  | (P-10719)         |
| 526.1501 | n | (P-10719) | 526.5550 | n  | (P-10719)         |
| 526.1510 | n | (P-10719) | 526.6500 | n  | (P-10719)         |
| 526.1520 | n | (P-10719) | 526.6510 | n  | (P-10719)         |
| 526.1545 | n | (P-10719) | 526.7000 | n  | (P-10719)         |
| 526.1550 | n | (P-10719) | 526.7010 | n  | (P-10719)         |
| 526.1580 | n | (P-10719) | 526.7015 | n  | (P-10719)         |
| 526.2005 | n | (P-10719) | 526.7020 | n  | (P-10719)         |
| 526.2010 | n | (P-10719) | 526.7030 | n  | (P-10719)         |
| 526.2012 | n | (P-10719) | 650.20   | am | (P-9505)          |
| 526.2015 | n | (P-10719) | 650.30   | am | (P-9505)          |
| 526.2020 | n | (P-10719) | 650.80   | am | (P-9505)          |
| 526.2025 | n | (P-10719) | 650.110  | am | (P-9505)          |
| 526.2030 | n | (P-10719) | 650.290  | am | (P-9505)          |
| 526.2035 | n | (P-10719) | 650.300  | am | (P-9505)          |
| 526.2036 | n | (P-10719) | 650.310  | am | (P-9505)          |
| 526.2037 | n | (P-10719) | 650.315  | n  | (P-9505)          |
| 526.2038 | n | (P-10719) | 660.10   | n  | (P-9470)(E-11602) |
| 526.2040 | n | (P-10719) | 660.20   | n  | (P-9470)(E-11602) |
| 526.2043 | n | (P-10719) | 660.30   | n  | (P-9470)(E-11602) |
| 526.2044 | n | (P-10719) | 660.40   | n  | (P-9470)(E-11602) |
| 526.2045 | n | (P-10719) | 660.50   | n  | (P-9470)(E-11602) |
| 526.2046 | n | (P-10719) | 660.60   | n  | (P-9470)(E-11602) |
| 526.2047 | n | (P-10719) | 660.70   | n  | (P-9470)(E-11602) |
| 526.2050 | n | (P-10719) | 660.80   | n  | (P-9470)(E-11602) |
| 526.2055 | n | (P-10719) | 660.90   | n  | (P-9470)(E-11602) |
| 526.2060 | n | (P-10719) | 660.100  | n  | (P-9470)(E-11602) |
| 526.2570 | n | (P-10719) | 660.110  | n  | (C-11228)         |
| 526.2800 | n | (P-10719) | 660.120  | n  | (P-9470)(E-11602) |
| 526.3005 | n | (P-10719) |          |    |                   |

[illegible]

## Title 44 (cont.)

|           |   |                  |           |   |                  |
|-----------|---|------------------|-----------|---|------------------|
| 1300.525  | n | (P-6288;A-12013) | 1300.7010 | n | (P-6288;A-12013) |
| 1300.1002 | n | (P-6288;A-12013) | 1300.7015 | n | (P-6288;A-12013) |
| 1300.1010 | n | (P-6288;A-12013) | 1300.7020 | n | (P-6288;A-12013) |
| 1300.1510 | n | (P-6288;A-12013) | 1300.7025 | n | (P-6288;A-12013) |
| 1300.1560 | n | (P-6288;A-12013) | 1300.7030 | n | (P-6288;A-12013) |
| 1300.1570 | n | (P-6288;A-12013) | 1400.505  | n | (P-7902)         |
| 1300.1580 | n | (P-6288;A-12013) | 1400.510  | n | (P-7902)         |
| 1300.2005 | n | (P-6288;A-12013) | 1400.515  | n | (P-7902)         |
| 1300.2010 | n | (P-6288;A-12013) | 1400.520  | n | (P-7902)         |
| 1300.2012 | n | (P-6288;A-12013) | 1400.525  | n | (P-7902)         |
| 1300.2015 | n | (P-6288;A-12013) | 1400.530  | n | (P-7902)         |
| 1300.2020 | n | (P-6288;A-12013) | 1400.1005 | n | (P-7902)         |
| 1300.2025 | n | (P-6288;A-12013) | 1400.1010 | n | (P-7902)         |
| 1300.2030 | n | (P-6288;A-12013) | 1400.1015 | n | (P-7902)         |
| 1300.2035 | n | (P-6288;A-12013) | 1400.1505 | n | (P-7902)         |
| 1300.2036 | n | (P-6288;A-12013) | 1400.1510 | n | (P-7902)         |
| 1300.2037 | n | (P-6288;A-12013) | 1400.1515 | n | (P-7902)         |
| 1300.2038 | n | (P-6288;A-12013) | 1400.2005 | n | (P-7902)         |
| 1300.2040 | n | (P-6288;A-12013) | 1400.2010 | n | (P-7902)         |
| 1300.2043 | n | (P-6288;A-12013) | 1400.2015 | n | (P-7902)         |
| 1300.2044 | n | (P-6288;A-12013) | 1400.2020 | n | (P-7902)         |
| 1300.2045 | n | (P-6288;A-12013) | 1400.2025 | n | (P-7902)         |
| 1300.2046 | n | (P-6288;A-12013) | 1400.2030 | n | (P-7902)         |
| 1300.2047 | n | (P-6288;A-12013) | 1400.2035 | n | (P-7902)         |
| 1300.2050 | n | (P-6288;A-12013) | 1400.2040 | n | (P-7902)         |
| 1300.2055 | n | (P-6288;A-12013) | 1400.2045 | n | (P-7902)         |
| 1300.2060 | n | (P-6288;A-12013) | 1400.2505 | n | (P-7902)         |
| 1300.2560 | n | (P-6288;A-12013) | 1400.2510 | n | (P-7902)         |
| 1300.2800 | n | (P-6288;A-12013) | 1400.2515 | n | (P-7902)         |
| 1300.4005 | n | (P-6288;A-12013) | 1400.2520 | n | (P-7902)         |
| 1300.4010 | n | (P-6288;A-12013) | 1400.3005 | n | (P-7902)         |
| 1300.4505 | n | (P-6288;A-12013) | 1400.3010 | n | (P-7902)         |
| 1300.4510 | n | (P-6288;A-12013) | 1400.3505 | n | (P-7902)         |
| 1300.4530 | n | (P-6288;A-12013) | 1400.3510 | n | (P-7902)         |
| 1300.4540 | n | (P-6288;A-12013) | 1400.3515 | n | (P-7902)         |
| 1300.4545 | n | (P-6288;A-12013) | 1400.3520 | n | (P-7902)         |
| 1300.5013 | n | (P-6288;A-12013) | 1400.3525 | n | (P-7902)         |
| 1300.5015 | n | (P-6288;A-12013) | 1400.4005 | n | (P-7902)         |
| 1300.5020 | n | (P-6288;A-12013) | 1400.4010 | n | (P-7902)         |
| 1300.5030 | n | (P-6288;A-12013) | 1400.4015 | n | (P-7902)         |
| 1300.5035 | n | (P-6288;A-12013) | 1400.4020 | n | (P-7902)         |
| 1300.5310 | n | (P-6288;A-12013) | 1400.4505 | n | (P-7902)         |
| 1300.5510 | n | (P-6288;A-12013) | 1400.4510 | n | (P-7902)         |
| 1300.5520 | n | (P-6288;A-12013) | 1400.4515 | n | (P-7902)         |
| 1300.5530 | n | (P-6288;A-12013) | 1400.4520 | n | (P-7902)         |
| 1300.5540 | n | (P-6288;A-12013) | 1400.4525 | n | (P-7902)         |
| 1300.5550 | n | (P-6288;A-12013) | 1400.4530 | n | (P-7902)         |
| 1300.6010 | n | (P-6288;A-12013) | 1400.4535 | n | (P-7902)         |
| 1300.6500 | n | (P-6288;A-12013) | 1400.4540 | n | (P-7902)         |
| 1300.6510 | n | (P-6288;A-12013) | 1400.4545 | n | (P-7902)         |
| 1300.6520 | n | (P-6288;A-12013) | 1400.4550 | n | (P-7902)         |
| 1300.7000 | n | (P-6288;A-12013) | 1400.4555 | n | (P-7902)         |
|           |   |                  | 1400.4560 | n | (P-7902)         |

## Title 44 (cont.)

|           |   |                    |           |    |                     |
|-----------|---|--------------------|-----------|----|---------------------|
| 1400.4565 | n | (P-7902)           | 2000.2055 | n  | (P-11695)(E-12208)  |
| 1400.5005 | n | (P-7902)           | 2000.2060 | n  | (P-11695)(E-12208)  |
| 1400.5010 | n | (P-7902)           | 2000.2560 | n  | (P-11695)(E-12208)  |
| 1400.5015 | n | (P-7902)           | 2000.2570 | n  | (P-11695)(E-12208)  |
| 1400.5020 | n | (P-7902)           | 2000.2800 | n  | (P-11695)(E-12208)  |
| 1400.5025 | n | (P-7902)           | 2000.3005 | n  | (P-11695)(E-12208)  |
| 1400.5030 | n | (P-7902)           | 2000.4005 | n  | (P-11695)(E-12208)  |
| 1400.5035 | n | (P-7902)           | 2000.4510 | n  | (P-11695)(E-12208)  |
| 1400.5040 | n | (P-7902)           | 2000.4530 | n  | (P-11695)(E-12208)  |
| 1400.5045 | n | (P-7902)           | 2000.4535 | n  | (P-11695)(E-12208)  |
| 1400.5050 | n | (P-7902)           | 2000.4540 | n  | (P-11695)(E-12208)  |
| 1400.5055 | n | (P-7902)           | 2000.4545 | n  | (P-11695)(E-12208)  |
| 1400.6005 | n | (P-7902)           | 2000.4570 | n  | (P-11695)(E-12208)  |
| 1400.6010 | n | (P-7902)           | 2000.5013 | n  | (P-11695)(E-12208)  |
| 1400.6015 | n | (P-7902)           | 2000.5015 | n  | (P-11695)(E-12208)  |
| 1400.6020 | n | (P-7902)           | 2000.5020 | n  | (P-11695)(E-12208)  |
| 1400.6025 | n | (P-7902)           | 2000.5030 | n  | (P-11695)(E-12208)  |
| 1400.6030 | n | (P-7902)           | 2000.5035 | n  | (P-11695)(E-12208)  |
| 1400.6035 | n | (P-7902)           | 2000.5310 | n  | (P-11695)(E-12208)  |
| 2000.1    | n | (P-11695)(E-12208) | 2000.5310 | n  | (P-11695)(E-12208)  |
| 2000.5    | n | (P-11695)(E-12208) | 2000.5520 | n  | (P-11695)(E-12208)  |
| 2000.8    | n | (P-11695)(E-12208) | 2000.5530 | n  | (P-11695)(E-12208)  |
| 2000.10   | n | (P-11695)(E-12208) | 2000.5540 | n  | (P-11695)(E-12208)  |
| 2000.15   | n | (P-11695)(E-12208) | 2000.5550 | n  | (P-11695)(E-12208)  |
| 2000.25   | n | (P-11695)(E-12208) | 2000.6010 | n  | (P-11695)(E-12208)  |
| 2000.525  | n | (P-11695)(E-12208) | 2000.6500 | n  | (P-11695)(E-12208)  |
| 2000.1005 | n | (P-11695)(E-12208) | 2000.7000 | n  | (P-11695)(E-12208)  |
| 2000.1510 | n | (P-11695)(E-12208) | 2000.7015 | n  | (P-11695)(E-12208)  |
| 2000.1560 | n | (P-11695)(E-12208) | 2000.7020 | n  | (P-11695)(E-12208)  |
| 2000.1570 | n | (P-11695)(E-12208) | 2000.7025 | n  | (P-11695)(E-12208)  |
| 2000.1580 | n | (P-11695)(E-12208) | 2000.7030 | n  | (P-11695)(E-12208)  |
| 2000.2005 | n | (P-11695)(E-12208) | 5000.120  | am | (P-8053)            |
| 2000.2010 | n | (P-11695)(E-12208) | 5000.230  | am | (P-8053)            |
| 2000.2012 | n | (P-11695)(E-12208) | 5000.231  | n  | (P-8053)            |
| 2000.2015 | n | (P-11695)(E-12208) | 5000.232  | n  | (P-8053)            |
| 2000.2020 | n | (P-11695)(E-12208) | 5000.233  | n  | (P-8053)            |
| 2000.2025 | n | (P-11695)(E-12208) | 5000.234  | n  | (P-8053)            |
| 2000.2030 | n | (P-11695)(E-12208) | 5000.235  | n  | (P-8053)            |
| 2000.2035 | n | (P-11695)(E-12208) | 5000.240  | am | (P-8053)            |
| 2000.2036 | n | (P-11695)(E-12208) | 5000.250  | am | (P-8053)            |
| 2000.2037 | n | (P-11695)(E-12208) | 5000.660  | am | (P-8053)            |
| 2000.2038 | n | (P-11695)(E-12208) | 5010.1410 | r  | (P-14699/97;A-6931) |
| 2000.2040 | n | (P-11695)(E-12208) |           |    |                     |
| 2000.2043 | n | (P-11695)(E-12208) |           |    |                     |
| 2000.2044 | n | (P-11695)(E-12208) |           |    |                     |
| 2000.2045 | n | (P-11695)(E-12208) |           |    |                     |
| 2000.2046 | n | (P-11695)(E-12208) |           |    |                     |
| 2000.2047 | n | (P-11695)(E-12208) |           |    |                     |
| 2000.2050 | n | (P-11695)(E-12208) |           |    |                     |

## TITLE 47

|        |    |                    |
|--------|----|--------------------|
| 110.10 | am | (P-6134/97;A-1910) |
| 110.30 | am | (P-6134/97;A-1910) |
| 110.40 | am | (P-6134/97;A-1910) |
| 110.60 | am | (P-6134/97;A-1910) |
| 110.70 | am | (P-6134/97;A-1910) |
| 110.80 | am | (P-6134/97;A-1910) |



| Title 47 (cont.) | (P-6134/97:A-1910) | 936.40     | n  | (P-5177)               | Title 50 (cont.) | 4415.II.A | n  | (P-2487:A-7987)     |
|------------------|--------------------|------------|----|------------------------|------------------|-----------|----|---------------------|
| 110.91           | am                 | 936.50     | n  | (P-5177)               | 4202.Ap.I        | 4415.II.B | n  | (P-2487:A-7987)     |
| 110.230          | am                 | 936.60     | n  | (P-5177)               | 4202.Ap.J        | 4425.10   | n  | (P-7444:A-7987)     |
| 110.260          | am                 | 936.Ex.A   | n  | (P-5177)               | 4202.Ap.K        | 4425.20   | n  | (P-7444)            |
| 110.280          | am                 | 1406.10    | n  | (P-12382/97:A-3038)    | 4202.Ap.L        | 4425.30   | n  | (P-7444)            |
| 110.330          | am                 | 1406.20    | n  | (P-12382/97:A-3038)    | 4202.Ap.M        | 4425.40   | n  | (P-7444)            |
| 110.340          | am                 | 1406.30    | n  | (P-12382/97:A-3038)    | 4203.10          | 4425.50   | n  | (P-7444)            |
| 110.360          | am                 | 1406.40    | n  | (P-12382/97:A-3038)    | 4203.20          | 4425.60   | n  | (P-7444)            |
| 220.109          | am                 | 1406.50    | n  | (P-12382/97:A-3038)    | 4203.30          | 4430.10   | n  | (P-16946/97:A-6692) |
| 250.109          | am                 |            | n  | (P-11685)              | 4203.40          | 4430.20   | n  | (P-16946/97:A-6692) |
| 260.109          | am                 | 1406.60    | n  | (P-12382/97:A-3038)    | 4203.50          | 4430.30   | n  | (P-16946/97:A-6692) |
| 310.109          | r                  | 1406.70    | n  | (P-12382/97:A-3038)    | 4203.60          | 4430.40   | n  | (P-16946/97:A-6692) |
| 310.702          | am                 | 1406.80    | n  | (P-12382/97:A-3038)    | 4203.70          | 4435.10   | n  | (P-2546/A-10459)    |
| 360.109          | am                 | 1406.90    | n  | (P-12382/97:A-3038)    | 4203.80          | 4435.20   | n  | (P-2546/A-10459)    |
| 365.109          | am                 |            | n  | (P-11685)              | 4203.90          | 4435.30   | n  | (P-2546/A-10459)    |
|                  |                    | 1406.100   | n  | (P-12382/97:A-3038)    | 4203.100         | 4435.40   | n  | (P-2546/A-10459)    |
|                  |                    |            | n  | (P-11685)              | 4203.110         | 4435.50   | n  | (P-2546/A-10459)    |
|                  |                    | 1406.110   | n  | (P-12382/97:A-3038)    | 4401.20          | 4435.60   | n  | (P-2546/A-10459)    |
|                  |                    | 1407.10    | am | (P-8652)               | 4401.25          | 4435.70   | n  | (P-2546/A-10459)    |
|                  |                    | 1407.20    | am | (P-8652)               | 4401.30          | 4435.80   | n  | (P-2546/A-10459)    |
|                  |                    | 1407.30    | am | (P-8652)               | 4401.40          | 5100.10   | r  | (P-12072/97:A-2103) |
|                  |                    | 1407.60    | am | (P-8652)               | 4401.50          | 5100.20   | r  | (P-12072/97:A-2103) |
|                  |                    | 1407.60    | am | (P-11380/97:A-2105)    | 4401.60          | 5100.30   | r  | (P-12072/97:A-2103) |
|                  |                    | 2012.10    | am | (P-11380/97:A-2105)    | 4401.70          | 5100.40   | r  | (P-12072/97:A-2103) |
|                  |                    | 2012.40    | am | (P-11380/97:A-2105)    | 4401.70          | 5100.50   | r  | (P-12072/97:A-2103) |
|                  |                    | 2012.60    | am | (P-11380/97:A-2105)    | 4402.10          | 5100.50   | r  | (P-12072/97:A-2103) |
|                  |                    | 2012.90    | am | (P-11380/97:A-2105)    | 4402.20          | 5421.20   | am | (P-15086/97:A-6671) |
|                  |                    | 2012.100   | am | (P-11380/97:A-2105)    | 4404.10          | 5421.110  | am | (P-15086/97:A-6671) |
|                  |                    | 2012.123   | n  | (P-11380/97:A-2105)    | 4404.20          | 5421.111  | am | (P-15086/97:A-6671) |
|                  |                    | 2012.127   | n  | (P-11380/97:A-2105)    | 4404.30          | 5421.131  | n  | (P-15086/97:A-6671) |
|                  |                    | 2012.128   | n  | (P-11380/97:A-2105)    | 4404.40          |           |    |                     |
|                  |                    | Ex.A       | am | (P-11380/97:A-2105)    | 4404.50          |           |    |                     |
|                  |                    | Ex.B       | am | (P-11380/97:A-2105)    | 4404.60          |           |    |                     |
|                  |                    | Ex.C       | am | (P-11380/97:A-2105)    | 4404.70          |           |    |                     |
|                  |                    | Ex.D       | am | (P-11380/97:A-2105)    | 4404.80          |           |    |                     |
|                  |                    | Ex.F       | n  | (P-11380/97:A-2105)    | 4404.90          |           |    |                     |
|                  |                    | Ex.G       | n  | (P-11380/97:A-2105)    | 4404.100         |           |    |                     |
|                  |                    | Ex.H       | n  | (P-11380/97:A-2105)    | 4404.110         |           |    |                     |
|                  |                    | 2051.Ex.A  | am | (P-8766/97:A-16364/97) | 4404.120         |           |    |                     |
|                  |                    |            |    | (RQ-2456.EC-5126)      | 4404.130         |           |    |                     |
|                  |                    | 4201.10    | am | (P-11100)              | 4404.140         |           |    |                     |
|                  |                    | 4201.20    | am | (P-11100)              | 4404.Ap.A        |           |    |                     |
|                  |                    | 4201.II.A  | r  | (P-11100)              | 4404.Ap.B        |           |    |                     |
|                  |                    | 4202.10    | r  | (P-12889/97:A-4851)    | 4405.10          |           |    |                     |
|                  |                    | 4202.20    | r  | (P-12889/97:A-4851)    | 4405.20          |           |    |                     |
|                  |                    | 4202.Ap.A  | r  | (P-12889/97:A-4851)    | 4415.10          |           |    |                     |
|                  |                    | 4202.Ap.B  | r  | (P-12889/97:A-4851)    | 4415.20          |           |    |                     |
|                  |                    | 4202.Ap.C  | r  | (P-12889/97:A-4851)    | 4415.30          |           |    |                     |
|                  |                    | 4202.Ap.D  | r  | (P-12889/97:A-4851)    | 4415.40          |           |    |                     |
|                  |                    | 4202.Ap.E  | r  | (P-12889/97:A-4851)    | 4415.50          |           |    |                     |
|                  |                    | 4202.Ap.F  | r  | (P-12889/97:A-4851)    | 4415.60          |           |    |                     |
|                  |                    | 4202.Ap.G  | r  | (P-12889/97:A-4851)    | 4415.70          |           |    |                     |
|                  |                    | 4202.Ap.H  | r  | (P-12889/97:A-4851)    | 4415.80          |           |    |                     |
|                  |                    | 4202.Ap.I  | r  | (P-12889/97:A-4851)    | 4415.90          |           |    |                     |
|                  |                    | 4202.Ap.J  | r  | (P-12889/97:A-4851)    | 4415.100         |           |    |                     |
|                  |                    | 4202.Ap.K  | r  | (P-12889/97:A-4851)    | 4415.110         |           |    |                     |
|                  |                    | 4202.Ap.L  | r  | (P-12889/97:A-4851)    | 4415.120         |           |    |                     |
|                  |                    | 4202.Ap.M  | r  | (P-12889/97:A-4851)    | 4415.130         |           |    |                     |
|                  |                    | 4202.Ap.N  | r  | (P-12889/97:A-4851)    | 4415.140         |           |    |                     |
|                  |                    | 4202.Ap.O  | r  | (P-12889/97:A-4851)    | 4415.150         |           |    |                     |
|                  |                    | 4202.Ap.P  | r  | (P-12889/97:A-4851)    | 4415.160         |           |    |                     |
|                  |                    | 4202.Ap.Q  | r  | (P-12889/97:A-4851)    | 4415.170         |           |    |                     |
|                  |                    | 4202.Ap.R  | r  | (P-12889/97:A-4851)    | 4415.180         |           |    |                     |
|                  |                    | 4202.Ap.S  | r  | (P-12889/97:A-4851)    | 4415.190         |           |    |                     |
|                  |                    | 4202.Ap.T  | r  | (P-12889/97:A-4851)    | 4415.200         |           |    |                     |
|                  |                    | 4202.Ap.U  | r  | (P-12889/97:A-4851)    | 4415.210         |           |    |                     |
|                  |                    | 4202.Ap.V  | r  | (P-12889/97:A-4851)    | 4415.220         |           |    |                     |
|                  |                    | 4202.Ap.W  | r  | (P-12889/97:A-4851)    | 4415.230         |           |    |                     |
|                  |                    | 4202.Ap.X  | r  | (P-12889/97:A-4851)    | 4415.240         |           |    |                     |
|                  |                    | 4202.Ap.Y  | r  | (P-12889/97:A-4851)    | 4415.250         |           |    |                     |
|                  |                    | 4202.Ap.Z  | r  | (P-12889/97:A-4851)    | 4415.260         |           |    |                     |
|                  |                    | 4202.Ap.AA | r  | (P-12889/97:A-4851)    | 4415.270         |           |    |                     |
|                  |                    | 4202.Ap.AB | r  | (P-12889/97:A-4851)    | 4415.280         |           |    |                     |
|                  |                    | 4202.Ap.AC | r  | (P-12889/97:A-4851)    | 4415.290         |           |    |                     |
|                  |                    | 4202.Ap.AD | r  | (P-12889/97:A-4851)    | 4415.300         |           |    |                     |
|                  |                    | 4202.Ap.AE | r  | (P-12889/97:A-4851)    | 4415.310         |           |    |                     |
|                  |                    | 4202.Ap.AF | r  | (P-12889/97:A-4851)    | 4415.320         |           |    |                     |
|                  |                    | 4202.Ap.AG | r  | (P-12889/97:A-4851)    | 4415.330         |           |    |                     |
|                  |                    | 4202.Ap.AH | r  | (P-12889/97:A-4851)    | 4415.340         |           |    |                     |
|                  |                    | 4202.Ap.AI | r  | (P-12889/97:A-4851)    | 4415.350         |           |    |                     |
|                  |                    | 4202.Ap.AJ | r  | (P-12889/97:A-4851)    | 4415.360         |           |    |                     |
|                  |                    | 4202.Ap.AK | r  | (P-12889/97:A-4851)    | 4415.370         |           |    |                     |
|                  |                    | 4202.Ap.AL | r  | (P-12889/97:A-4851)    | 4415.380         |           |    |                     |
|                  |                    | 4202.Ap.AM | r  | (P-12889/97:A-4851)    | 4415.390         |           |    |                     |
|                  |                    | 4202.Ap.AN | r  | (P-12889/97:A-4851)    | 4415.400         |           |    |                     |
|                  |                    | 4202.Ap.AO | r  | (P-12889/97:A-4851)    | 4415.410         |           |    |                     |
|                  |                    | 4202.Ap.AP | r  | (P-12889/97:A-4851)    | 4415.420         |           |    |                     |
|                  |                    | 4202.Ap.AQ | r  | (P-12889/97:A-4851)    | 4415.430         |           |    |                     |
|                  |                    | 4202.Ap.AR | r  | (P-12889/97:A-4851)    | 4415.440         |           |    |                     |
|                  |                    | 4202.Ap.AS | r  | (P-12889/97:A-4851)    | 4415.450         |           |    |                     |
|                  |                    | 4202.Ap.AT | r  | (P-12889/97:A-4851)    | 4415.460         |           |    |                     |
|                  |                    | 4202.Ap.AU | r  | (P-12889/97:A-4851)    | 4415.470         |           |    |                     |
|                  |                    | 4202.Ap.AV | r  | (P-12889/97:A-4851)    | 4415.480         |           |    |                     |
|                  |                    | 4202.Ap.AW | r  | (P-12889/97:A-4851)    | 4415.490         |           |    |                     |
|                  |                    | 4202.Ap.AX | r  | (P-12889/97:A-4851)    | 4415.500         |           |    |                     |
|                  |                    | 4202.Ap.AY | r  | (P-12889/97:A-4851)    | 4415.510         |           |    |                     |
|                  |                    | 4202.Ap.AZ | r  | (P-12889/97:A-4851)    | 4415.520         |           |    |                     |
|                  |                    | 4202.Ap.BA | r  | (P-12889/97:A-4851)    | 4415.530         |           |    |                     |
|                  |                    | 4202.Ap.BB | r  | (P-12889/97:A-4851)    | 4415.540         |           |    |                     |
|                  |                    | 4202.Ap.BC | r  | (P-12889/97:A-4851)    | 4415.550         |           |    |                     |
|                  |                    | 4202.Ap.BD | r  | (P-12889/97:A-4851)    | 4415.560         |           |    |                     |
|                  |                    | 4202.Ap.BE | r  | (P-12889/97:A-4851)    | 4415.570         |           |    |                     |
|                  |                    | 4202.Ap.BF | r  | (P-12889/97:A-4851)    | 4415.580         |           |    |                     |
|                  |                    | 4202.Ap.BG | r  | (P-12889/97:A-4851)    | 4415.590         |           |    |                     |
|                  |                    | 4202.Ap.BH | r  | (P-12889/97:A-4851)    | 4415.600         |           |    |                     |
|                  |                    | 4202.Ap.BI | r  | (P-12889/97:A-4851)    | 4415.610         |           |    |                     |
|                  |                    | 4202.Ap.BJ | r  | (P-12889/97:A-4851)    | 4415.620         |           |    |                     |
|                  |                    | 4202.Ap.BK | r  | (P-12889/97:A-4851)    | 4415.630         |           |    |                     |
|                  |                    | 4202.Ap.BL | r  | (P-12889/97:A-4851)    | 4415.640         |           |    |                     |
|                  |                    | 4202.Ap.BM | r  | (P-12889/97:A-4851)    | 4415.650         |           |    |                     |
|                  |                    | 4202.Ap.BN | r  | (P-12889/97:A-4851)    | 4415.660         |           |    |                     |
|                  |                    | 4202.Ap.BO | r  | (P-12889/97:A-4851)    | 4415.670         |           |    |                     |
|                  |                    | 4202.Ap.BP | r  | (P-12889/97:A-4851)    | 4415.680         |           |    |                     |
|                  |                    | 4202.Ap.BQ | r  | (P-12889/97:A-4851)    | 4415.690         |           |    |                     |
|                  |                    | 4202.Ap.BR | r  | (P-12889/97:A-4851)    | 4415.700         |           |    |                     |
|                  |                    | 4202.Ap.BS | r  | (P-12889/97:A-4851)    | 4415.710         |           |    |                     |
|                  |                    | 4202.Ap.BT | r  | (P-12889/97:A-4851)    | 4415.720         |           |    |                     |
|                  |                    | 4202.Ap.BU | r  | (P-12889/97:A-4851)    | 4415.730         |           |    |                     |
|                  |                    | 4202.Ap.BV | r  | (P-12889/97:A-4851)    | 4415.740         |           |    |                     |
|                  |                    | 4202.Ap.BW | r  | (P-12889/97:A-4851)    | 4415.750         |           |    |                     |
|                  |                    | 4202.Ap.BX | r  | (P-12889/97:A-4851)    | 4415.760         |           |    |                     |
|                  |                    | 4202.Ap.BY | r  | (P-12889/97:A-4851)    | 4415.770         |           |    |                     |
|                  |                    | 4202.Ap.BZ | r  | (P-12889/97:A-4851)    | 4415.780         |           |    |                     |
|                  |                    | 4202.Ap.CA | r  | (P-12889/97:A-4851)    | 4415.790         |           |    |                     |
|                  |                    | 4202.Ap.CB | r  | (P-12889/97:A-4851)    | 4415.800         |           |    |                     |
|                  |                    | 4202.Ap.CC | r  | (P-12889/97:A-4851)    | 4415.810         |           |    |                     |
|                  |                    | 4202.Ap.CD | r  | (P-12889/97:A-4851)    | 4415.820         |           |    |                     |
|                  |                    | 4202.Ap.CE | r  | (P-12889/97:A-4851)    | 4415.830         |           |    |                     |
|                  |                    | 4202.Ap.CF | r  | (P-12889/97:A-4851)    | 4415.840         |           |    |                     |
|                  |                    | 4202.Ap.CG | r  | (P-12889/97:A-4851)    | 4415.850         |           |    |                     |
|                  |                    | 4202.Ap.CH | r  | (P-12889/97:A-4851)    | 4415.860         |           |    |                     |
|                  |                    | 4202.Ap.CI | r  | (P-12889/97:A-4851)    | 4415.870         |           |    |                     |
|                  |                    | 4202.Ap.CJ | r  | (P-12889/97:A-4851)    | 4415.880         |           |    |                     |
|                  |                    | 4202.Ap.CK | r  | (P-12889/97:A-4851)    | 4415.890         |           |    |                     |
|                  |                    | 4202.Ap.CL | r  | (P-12889/97:A-4851)    | 4415.900         |           |    |                     |
|                  |                    | 4202.Ap.CM | r  | (P-12889/97:A-4851)    | 4415.910         |           |    |                     |
|                  |                    | 4202.Ap.CN | r  | (P-12889/97:A-4851)    | 4415.920         |           |    |                     |
|                  |                    | 4202.Ap.CO | r  | (P-12889/97:A-4851)    | 4415.930         |           |    |                     |
|                  |                    | 4202.Ap.CP | r  | (P-12889/97:A-4851)    | 4415.940         |           |    |                     |
|                  |                    | 4202.Ap.CQ | r  | (P-12889/97:A-4851)    | 4415.950         |           |    |                     |
|                  |                    | 4202.Ap.CR | r  | (P-12889/97:A-4851)    | 4415.960         |           |    |                     |
|                  |                    | 4202.Ap.CS | r  | (P-12889/97:A-4851)    | 4415.970         |           |    |                     |
|                  |                    | 4202.Ap.CT | r  | (P-12889/97:A-4851)    | 4415.980         |           |    |                     |
|                  |                    | 4202.Ap.CU | r  | (P-12889/97:A-4851)    | 4415.990         |           |    |                     |
|                  |                    | 4202.Ap.CV | r  | (P-12889/97:A-4851)    | 4416.000         |           |    |                     |
|                  |                    | 4202.Ap.CW | r  | (P-12889/97:A-4851)    | 4416.010         |           |    |                     |
|                  |                    | 4202.Ap.CX | r  | (P-12889/97:A-4851)    | 4416.020         |           |    |                     |
|                  |                    | 4202.Ap.CY | r  | (P-12889/97:A-4851)    | 4416.030         |           |    |                     |
|                  |                    | 4202.Ap.CZ | r  | (P-12889/97:A-4851)    | 4416.040         |           |    |                     |
|                  |                    | 4202.Ap.DA | r  | (P-12889/97:A-4851)    | 4416.050         |           |    |                     |
|                  |                    | 4202.Ap.DB | r  | (P-12889/97:A-4851)    | 4416.060         |           |    |                     |
|                  |                    | 4202.Ap.DC | r  | (P-12889/97:A-4851)    | 4416.070         |           |    |                     |
|                  |                    | 4202.Ap.DD | r  | (P-12889/97:A-4851)    | 4416.080         |           |    |                     |
|                  |                    | 4202.Ap.DE | r  | (P-12889/97:A-4851)    | 4416.090         |           |    |                     |
|                  |                    | 4202.Ap.DF | r  | (P-12889/97:A-4851)    | 4416.100         |           |    |                     |
|                  |                    | 4202.Ap.DG | r  | (P-12889/97:A-4851)    | 4416.110         |           |    |                     |
|                  |                    | 4202.Ap.DH | r  | (P-12889/97:A-4851)    | 4416.120         |           |    |                     |
|                  |                    | 4202.Ap.DI | r  |                        |                  |           |    |                     |

Title 56 (cont.)  
5300.750 am (P-12372/97:A-1336)  
6000.300 am (P-3781/97:A-4499)

## TITLE 59

50.10 n (P-95)  
50.20 n (P-95)  
50.30 n (P-95)  
50.40 n (P-95)  
50.50 n (P-95)  
50.60 n (P-95)  
50.70 n (P-95)  
50.80 n (P-95)  
103.120 am (P-11677)(E-12176)  
113.10 f (P-6354)  
113.15 f (P-6354)  
113.20 f (P-6354)  
113.30 f (P-6354)  
113.40 f (P-6354)  
113.45 f (P-6354)  
113.50 f (P-6354)  
113.51 f (P-6354)  
113.55 f (P-6354)  
113.60 f (P-6354)  
113.70 f (P-6354)  
113.80 f (P-6354)  
113.90 f (P-6354)  
113.100 f (P-6354)  
113.110 f (P-6354)  
113.120 f (P-6354)  
113.130 f (P-6354)  
113.140 f (P-6354)  
115.320 am (P-6695/97:A-8382)  
119.200 am (P-7086)  
119.260 am (P-6680/97:A-7987)  
119.252 n (P-7086)  
121.45 am (P-6673/97:A-7962)

## TITLE 62

240.10 am (P-11301)  
240.155 n (P-2044:A-8422)  
240.160 am (P-2044:A-8422)  
240.170 f (P-2044:A-8422)  
240.180 am (P-2044:A-8422)  
240.185 n (P-2044:A-8422)  
240.190 am (P-2044:A-8422)  
240.250 am (P-11301)  
240.251 am (P-11301)  
240.255 am (P-11301)  
240.310 am (P-11301)  
240.311 n (P-11301)  
240.312 n (P-11301)  
240.340 am (P-11301)

## Title 62 (cont.)

1774.11 am (P-5313)  
1774.13 am (P-5313)  
1777 re (CC-7712)  
1778.14 am (P-5294)  
1779. am (CC-7712)  
1780. re (CC-7712)  
1783. re (CC-7712)  
1784. re (CC-7712)  
1785.17 am (P-5306)  
1800.4 am (P-5199)  
1800.40 am (P-5199)  
1815. re (CC-7712)  
1816.46 am (P-5264)  
1816.49 am (P-5264)  
1816.64 am (P-5264)  
1816.66 am (P-5264)  
1816.67 am (P-5264)  
1816.83 am (P-5264)  
1816.116 am (P-5264)  
1816.117 am (P-5235)  
1817.46 am (P-5235)  
1817.49 am (P-5235)  
1817.61 am (P-5235)  
1817.62 am (P-5235)  
1817.66 am (P-5235)  
1817.67 am (P-5235)  
1817.83 am (P-5235)  
1817.116 am (P-5235)  
1817.117 am (P-5235)  
1819. re (CC-7712)  
1823.1 am (P-5323)  
1823.11 am (P-5323)  
1823.12 am (P-5323)  
1823.14 am (P-5323)  
1824. re (CC-7712)  
1825.11 am (P-5319)  
1827. re (CC-7712)  
1828. re (CC-7712)  
1840.1 am (P-5201)  
1840.11 am (P-5201)  
1843. re (CC-7712)  
1845. re (CC-7712)  
1846. re (CC-7712)  
1847.3 am (P-5183)  
1847.9 am (P-5183)  
1848. re (CC-7712)  
1850.13 am (P-5336)  
1850.14 am (P-5336)  
1850.15 am (P-5336)  
1850.16 am (P-5336)  
2501.1 am (P-6406:A-11382)  
2501.4 am (P-6406:A-11382)

## TITLE 68

900.10 r (P-3660:A-10845)  
900.20 r (P-3660:A-10845)  
900.30 r (P-3660:A-10845)  
900.40 r (P-3660:A-10845)  
900.50 r (P-3660:A-10845)  
900.60 r (P-3660:A-10845)  
900.70 r (P-3660:A-10845)  
900.80 r (P-3660:A-10845)  
900.90 r (P-3660)  
1150.10 am (P-4607)  
1150.20 r (P-4607)  
1150.30 am (P-4607)  
1150.40 am (P-4607)  
1150.60 am (P-4607)  
1150.80 am (P-4607)  
1150.85 am (P-4607)  
1150.Ap.A am (P-4607)  
1210.235 am (P-9466)  
1220.415 n (P-2066:A-10574)(E-2332)  
1230.10 r (P-4600:A-10567)  
1230.20 am (P-4600:A-10567)  
1230.30 am (P-4600:A-10567)  
1230.120 am (P-4600:A-10567)  
1230.130 am (P-4600:A-10567)  
1245.10 am (P-13249/97:A-8445)  
1245.160 n (P-13249/97:A-8445)  
1245.220 am (P-13249/97:A-8445)  
1245.260 n (P-13249/97:A-8445)  
1245.300 am (P-13249/97:A-8445)  
1245.310 n (P-13249/97:A-8445)  
1245.330 n (P-13249/97:A-8445)  
1247.100 n (P-3698)  
1252.10 am (P-3401:A-10592)(E-3401)  
1252.50 am (P-3401:A-10592)(E-3401)  
1252.Ap.A n (P-7530)  
1275.10 r (P-2752:A-10597)  
1275.20 am (P-2752:A-10597)

|          |         |                     |             |    |                     |  |          |         |                      |          |    |                      |
|----------|---------|---------------------|-------------|----|---------------------|--|----------|---------|----------------------|----------|----|----------------------|
| Title 68 | (cont.) |                     | 1375. Ap. A | am | (P-8135/97;A-8460)  |  | Title 77 | (cont.) |                      | 280.2030 | n  | (P-11453/97;A-10625) |
| 1275.30  | am      | (P-2752;A-10597)    | 1380.210    | am | (P-10269)           |  | 260.1600 | n       | (P-4373/97;A-3899)   | 280.2030 | n  | (P-11453/97;A-10625) |
| 1275.40  | am      | (P-2752;A-10597)    | 1380.240    | am | (P-10269)           |  | 260.1700 | n       | (P-4373/97;A-3899)   | 280.2045 | n  | (P-11453/97;A-10625) |
| 1275.50  | am      | (P-2752;A-10597)    | 1380.250    | am | (P-10269)           |  | 260.1800 | n       | (P-4373/97;A-3899)   | 280.2050 | n  | (P-11453/97;A-10625) |
| 1275.60  | am      | (P-2752;A-10597)    | 1380.270    | am | (P-10269)           |  | 260.1900 | n       | (P-4373/97;A-3899)   | 280.2060 | n  | (P-11453/97;A-10625) |
| 1275.70  | am      | (P-2752;A-10597)    | 1380.280    | am | (P-10269)           |  | 260.2000 | n       | (P-4373/97;A-3899)   | 280.2070 | n  | (P-11453/97;A-10625) |
| 1283.10  | r       | (P-7505)            | 1380.310    | am | (P-10269)           |  | 260.2100 | n       | (P-4373/97;A-3899)   | 280.2080 | n  | (P-11453/97;A-10625) |
| 1283.15  | n       | (P-7505)            | 1455.15     | am | (E-4132)            |  | 260.2200 | n       | (P-4373/97;A-3899)   | 280.2090 | n  | (P-11453/97;A-10625) |
| 1283.20  | am      | (P-7505)            | 1455.30     | am | (E-4132)            |  | 260.2300 | n       | (P-4373/97;A-3899)   | 280.3000 | n  | (P-11453/97;A-10625) |
| 1283.25  | n       | (P-7505)            | 1465.75     | n  | (P-11625/97;A-3879) |  | 260.2400 | n       | (P-4373/97;A-3899)   | 280.4000 | n  | (P-11453/97;A-10625) |
| 1283.30  | am      | (P-7505)            | 1468.70     | am | (P-8756)            |  | 260.2500 | n       | (P-4373/97;A-3899)   | 280.4010 | n  | (P-11453/97;A-10625) |
| 1283.50  | am      | (P-7505)            | 1468.110    | am | (P-8756)            |  | 270.1200 | am      | (P-4393/97;A-4393)   | 280.4020 | n  | (P-11453/97;A-10625) |
| 1283.60  | am      | (P-7505)            | 1470.55     | n  | (P-14150/97;A-3875) |  | 280.101  | r       | (P-11433/97;A-10623) | 280.4030 | n  | (P-11453/97;A-10625) |
| 1283.70  | am      | (P-7505)            | 1500.5      | am | (P-6815)            |  | 280.201  | r       | (P-11433/97;A-10623) | 280.4040 | n  | (E-13908;W-9600)     |
| 1283.100 | am      | (P-7505)            | 1500.10     | am | (P-6815)            |  | 280.202  | r       | (P-11433/97;A-10623) | 290.100  | n  | (O/S-15293;W-9600)   |
| 1283.110 | am      | (P-7505)            | 1500.11     | am | (P-6815)            |  | 280.202  | r       | (P-11433/97;A-10623) | 290.200  | n  | (O/S-15293;W-9600)   |
| 1283.95  | n       | (P-14154/97;A-3883) | 1500.20     | am | (P-6815)            |  | 280.203  | r       | (P-11433/97;A-10623) | 290.300  | n  | (O/S-15293;W-9600)   |
| 1285.110 | am      | (P-3706;A-10580)    | 1500.30     | am | (P-6815)            |  | 280.204  | r       | (P-11433/97;A-10623) | 290.400  | n  | (O/S-15293;W-9600)   |
| 1285.215 | n       | (P-15088/97;A-6985) | 1500.35     | am | (P-6815)            |  | 280.205  | r       | (P-11433/97;A-10623) | 290.500  | n  | (O/S-15293;W-9600)   |
| 1300.15  | n       | (P-14498/97;A-3895) | 1500.49     | n  | (P-6815)            |  | 280.206  | r       | (P-11433/97;A-10623) | 290.600  | n  | (O/S-15293;W-9600)   |
| 1310.65  | n       | (P-14158/97;A-3887) |             |    |                     |  | 280.207  | r       | (P-11433/97;A-10623) | 290.700  | n  | (O/S-15293;W-9600)   |
| 1330.05  | am      | (P-7870)            |             |    |                     |  | 280.301  | r       | (P-11433/97;A-10623) | 290.800  | n  | (E-13908;W-9600)     |
| 1330.10  | am      | (P-7870)            | 40.100      | n  | (P-4534;A-9518)     |  | 280.302  | r       | (P-11433/97;A-10623) | 290.900  | n  | (O/S-15293;W-9600)   |
| 1330.20  | am      | (P-6041)            |             | am | (R-9599/E-2597)     |  | 280.303  | r       | (P-11433/97;A-10623) | 300.160  | am | (P-6185)             |
| 1330.30  | am      | (P-7860)            | 40.110      | am | (P-4534;A-9518)     |  | 280.401  | r       | (P-11433/97;A-10623) | 300.163  | n  | (P-6185)             |
| 1330.40  | am      | (P-7870)            |             |    | (R-9599/E-2597)     |  | 280.402  | r       | (P-11433/97;A-10623) | 300.620  | am | (P-6185)             |
| 1350.40  | n       | (P-14162/97;A-3891) | 40.120      | r  | (R-9599/E-2597)     |  | 280.403  | r       | (P-11433/97;A-10623) | 300.315  | n  | (P-6786/97;A-7218)   |
| 1330.60  | am      | (P-7870)            |             |    | (R-9599/E-2597)     |  | 280.404  | r       | (P-11433/97;A-10623) | 300.670  | am | (P-6786/97;A-7218)   |
| 1350.80  | am      | (P-6041)            | 40.130      | am | (P-4534;A-9518)     |  | 280.405  | r       | (P-11433/97;A-10623) | 300.661  | am | (P-3527/97;A-4094)   |
| 1350.85  | n       | (P-7870)            | 40.140      | r  | (R-9599/E-2597)     |  | 280.406  | r       | (P-11433/97;A-10623) | 300.663  | am | (P-6185)             |
| 1350.85  | n       | (P-6041)            |             |    | (P-4534;A-9518)     |  | 280.407  | r       | (P-11433/97;A-10623) | 300.663  | am | (P-3527/97;A-4094)   |
| 1350.85  | n       | (P-7870)            |             |    | (R-9599/E-2597)     |  | 280.501  | r       | (P-11433/97;A-10623) | 300.663  | am | (P-6786/97;A-7218)   |
| 1350.116 | am      | (P-6041)            |             |    |                     |  | 280.502  | r       | (P-11433/97;A-10623) | 310.230  | am | (P-6204)             |
| 1350.117 | am      | (P-6041)            | 205.520     | am | (P-9720/97;A-9335)  |  | 280.503  | r       | (P-11433/97;A-10623) | 310.270  | am | (P-6204)             |
| 1375.10  | am      | (P-8135/97;A-8460)  | 205.520     | am | (P-9720/97;A-9335)  |  | 280.504  | r       | (P-11433/97;A-10623) | 310.270  | am | (P-6204)             |
| 1375.20  | am      | (P-8135/97;A-8460)  | 205.540     | am | (P-2523)            |  | 280.601  | r       | (P-11433/97;A-10623) | 330.163  | n  | (P-6039)             |
| 1375.30  | am      | (P-8135/97;A-8460)  | 205.540     | am | (P-2523)            |  | 280.602  | r       | (P-11433/97;A-10623) | 330.163  | n  | (P-6039)             |
| 1375.30  | am      | (P-8135/97;A-8460)  | 245.50      | am | (P-6825)            |  | 280.603  | r       | (P-11433/97;A-10623) | 330.163  | n  | (P-6039)             |
| 1375.40  | am      | (P-8135/97;A-8460)  | 245.72      | am | (P-3453/97;A-3948)  |  | 280.604  | r       | (P-11433/97;A-10623) | 330.163  | n  | (P-6039)             |
| 1375.40  | am      | (P-8135/97;A-8460)  | 245.72      | am | (P-6109)            |  | 280.605  | r       | (P-11433/97;A-10623) | 330.163  | n  | (P-6039)             |
| 1375.50  | am      | (P-8135/97;A-8460)  | 250.310     | am | (P-6088)            |  | 280.701  | r       | (P-11433/97;A-10623) | 330.163  | n  | (P-6039)             |
| 1375.60  | am      | (P-8135/97;A-8460)  | 250.435     | am | (P-3438/97;A-3932)  |  | 280.801  | r       | (P-11433/97;A-10623) | 330.315  | n  | (P-6770/97;A-7203)   |
| 1375.70  | am      | (P-8135/97;A-8460)  | 250.435     | am | (P-6088)            |  | 280.802  | r       | (P-11433/97;A-10623) | 330.315  | n  | (P-6770/97;A-7203)   |
| 1375.80  | am      | (P-8135/97;A-8460)  | 250.1305    | am | (P-13264/97;A-9342) |  | 280.901  | r       | (P-11433/97;A-10623) | 330.720  | am | (P-6039)             |
| 1375.100 | am      | (P-8135/97;A-8460)  | 250.1320    | am | (P-13264/97;A-9342) |  | 280.1000 | n       | (P-11433/97;A-10625) | 330.720  | am | (P-6039)             |
| 1375.110 | am      | (P-8135/97;A-8460)  | 250.1520    | am | (P-13264/97;A-9342) |  | 280.1010 | n       | (P-11433/97;A-10625) | 330.720  | am | (P-6039)             |
| 1375.120 | am      | (P-8135/97;A-8460)  | 250.2140    | am | (P-13264/97;A-9342) |  | 280.1020 | n       | (P-11433/97;A-10625) | 330.720  | am | (P-6039)             |
| 1375.140 | am      | (P-8135/97;A-8460)  | 260.1000    | n  | (P-4373/97;A-3899)  |  | 280.1030 | n       | (P-11433/97;A-10625) | 330.911  | am | (P-5313/97;A-4078)   |
| 1375.150 | am      | (P-8135/97;A-8460)  | 260.1050    | n  | (P-4373/97;A-3899)  |  | 280.1040 | n       | (P-11433/97;A-10625) | 330.911  | am | (P-5313/97;A-4078)   |
| 1375.160 | am      | (P-8135/97;A-8460)  | 260.1100    | n  | (P-4373/97;A-3899)  |  | 280.1050 | n       | (P-11433/97;A-10625) | 330.911  | am | (P-5313/97;A-4078)   |
| 1375.170 | am      | (P-8135/97;A-8460)  | 260.1200    | n  | (P-4373/97;A-3899)  |  | 280.1060 | n       | (P-11433/97;A-10625) | 330.911  | am | (P-5313/97;A-4078)   |
| 1375.200 | am      | (P-8135/97;A-8460)  | 260.1300    | n  | (P-4373/97;A-3899)  |  | 280.2000 | n       | (P-11433/97;A-10625) | 330.911  | am | (P-5313/97;A-4078)   |
| 1375.200 | am      | (P-8135/97;A-8460)  | 260.1400    | n  | (P-4373/97;A-3899)  |  | 280.2010 | n       | (P-11433/97;A-10625) | 330.911  | am | (P-5313/97;A-4078)   |
| 1375.225 | am      | (P-8135/97;A-8460)  | 260.1500    | n  | (P-4373/97;A-3899)  |  | 280.2020 | n       | (P-11433/97;A-10625) | 330.911  | am | (P-5313/97;A-4078)   |
| 1375.225 | am      | (P-8135/97;A-8460)  | 260.1500    | n  | (P-4373/97;A-3899)  |  | 280.2020 | n       | (P-11433/97;A-10625) | 330.911  | am | (P-5313/97;A-4078)   |



|                  |          |                      |                      |    |                      |
|------------------|----------|----------------------|----------------------|----|----------------------|
| Title 77 (cont.) | 515 2050 | am                   | (P-14817/97;A-11835) |    |                      |
| 340.1120         | am       | (P-6119)             | 515 2060             | am | (P-14817/97;A-11835) |
| 340.1125         | n        | (P-6119)             | 515 Ap.C             | am | (P-14817/97;A-11835) |
| 340.1255         | n        | (P-6704/97;A-7162)   | 515 Ap.F             | am | (P-14817/97;A-11835) |
| 340.1310         | am       | (P-6119)             | 550.100              | am | (P-11416/97;A-5047)  |
| 340.1320         | am       | (P-6704/97;A-7162)   | 550.110              | am | (P-11416/97;A-5047)  |
| 340.1376         | am       | (P-3462/97;A-3959)   | 550.120              | am | (P-11416/97;A-5047)  |
| 340.1377         | am       | (P-3462/97;A-3959)   | 550.130              | am | (P-11416/97;A-5047)  |
|                  |          | (P-6119)             | 550 Ap.A             | n  | (P-11416/97;A-5047)  |
| 340.Tb.A         | am       | (P-6704/97;A-7162)   | 560.100              | n  | (P-11482/97;A-5062)  |
| 350.315          | n        | (P-6739/97;A-6739)   | 560.110              | n  | (P-11482/97;A-5062)  |
| 350.630          | am       | (P-6133)             | 560.120              | n  | (P-11482/97;A-5062)  |
| 350.681          | am       | (P-3475/97;A-4040)   | 560 Ap.A             | n  | (P-11482/97;A-5062)  |
|                  |          | (P-6133)             | 560 Ap.B             | n  | (P-11482/97;A-5062)  |
| 350.683          | am       | (P-3475/97;A-4040)   | 600.110              | am | (P-1717)             |
| 350.690          | am       | (P-6739/97;A-6739)   | 600.200              | am | (P-1717)             |
| 350.Tb.F         | am       | (P-6739/97;A-6739)   | 600.210              | am | (P-1717)             |
| 356.20           | am       | (P-8245)             | 661.70               | am | (P-8368)             |
| 370.160          | am       | (P-6074)             | 672.100              | am | (P-2643)(E-3127)     |
| 370.165          | am       | (P-6074)             | 672.220              | am | (P-2643)(E-3127)     |
| 370.715          | am       | (P-3426/97;A-3919)   | 672.225              | am | (P-2643)(E-3127)     |
|                  |          | (P-6074)             | 672.515              | am | (P-2643)(E-3127)     |
| 390.315          | n        | (P-6755/97;A-7188)   | 672.520              | am | (P-2643)(E-3127)     |
| 390.630          | am       | (P-6150)             | 672.600              | am | (P-2643)(E-3127)     |
| 390.681          | am       | (P-3497/97;A-4062)   | 675.10               | am | (P-5801)             |
|                  |          | (P-6150)             | 675.10               | am | (P-5801)             |
| 390.683          | am       | (P-3497/97;A-4062)   | 675.20               | am | (P-5801)             |
| 390.690          | am       | (P-6755/97;A-7188)   | 675.30               | n  | (P-5801)             |
| 390.Tb.F         | am       | (P-6755/97;A-7188)   | 675.100              | am | (P-5801)             |
| 392.10           | am       | (P-8239)             | 675.110              | am | (P-5801)             |
| 392.20           | am       | (P-8239)             | 675.120              | am | (P-5801)             |
| 392.30           | am       | (P-8239)             | 675.140              | am | (P-5801)             |
| 392.40           | am       | (P-8239)             | 675.200              | am | (P-5801)             |
| 392.80           | am       | (P-8239)             | 675.210              | n  | (P-5801)             |
| 392.170          | am       | (P-8239)             | 675.220              | n  | (P-5801)             |
| 392.200          | am       | (P-8239)             | 675.230              | n  | (P-5801)             |
| 395.170          | am       | (P-3492/97;A-4057)   | 675.240              | n  | (P-5801)             |
| 510.130          | am       | (P-13279/97;A-7680)  | 675.250              | n  | (P-5801)             |
| 510 Ap.A         | am       | (P-13279/97;A-7680)  | 675.300              | n  | (P-5801)             |
| 515.210          | am       | (P-3745)             | 680.10               | r  | (P-5812)             |
| 515.220          | am       | (P-3745)             | 680.20               | r  | (P-5812)             |
| 515.300          | am       | (P-3745)             | 680.30               | r  | (P-5812)             |
| 515.315          | am       | (P-3745)             | 681.10               | r  | (P-5789)             |
| 515.320          | am       | (P-14817/97;A-11835) | 681.20               | r  | (P-5789)             |
| 515.370          | am       | (P-14817/97;A-11835) | 681.30               | r  | (P-5789)             |
| 515.420          | am       | (P-14817/97;A-11835) | 681.110              | r  | (P-5789)             |
| 515.440          | am       | (P-14817/97;A-11835) | 681.120              | r  | (P-5789)             |
| 515.520          | am       | (P-14817/97;A-11835) | 681.130              | r  | (P-5789)             |
| 515.540          | am       | (P-14817/97;A-11835) | 681.140              | r  | (P-5789)             |
| 515.725          | n        | (P-14817/97;A-11835) | 681.150              | r  | (P-5789)             |
| 515.2000         | am       | (P-3745)             | 681.160              | r  | (P-5789)             |
|                  |          | (P-14817/97;A-11835) | 681.170              | r  | (P-5789)             |
| 515.2040         | am       | (P-14817/97;A-11835) | 685.10               | am | (P-816)              |

[illegible]







| Title 83 (cont.) | 505.1740 | n  | (P-9543)                | Title 83 (cont.) | 766.310 | n                            | (P-12886/97;A-3460) |
|------------------|----------|----|-------------------------|------------------|---------|------------------------------|---------------------|
| 411.180          | 505.2420 | n  | (P-9543)                | 745.15           | am      | (P-10951)                    | (P-12886/97;A-3460) |
| 411.190          | 505.3523 | n  | (P-9543)                | 745.40           | n       | (P-10951)                    | (P-12886/97;A-3460) |
| 411.200          | 505.4810 | n  | (P-9543)                | 745.200          | am      | (P-10951)                    | (P-12886/97;A-3460) |
| 411.210          | 505.4910 | n  | (P-9543)                | 745.210          | r       | (P-10951)                    |                     |
| 411.220          | 505.4950 | n  | (P-9543)                | 745.220          | r       | (P-10951)                    |                     |
| 411.230          | 505.8050 | n  | (P-9543)                | 745.221          | am      | (P-10951)                    |                     |
| 411.Tb.A         | 505.8060 | n  | (P-9543)                | 745.225          | r       | (P-10951)                    | (P-12100/97;A-2234) |
| 415.10           | 505.8081 | n  | (P-9543)                | 745.Ex.A         | r       | (P-10951)                    | (P-13048/97;A-2234) |
| 415.20           | 505.8082 | n  | (P-9543)                | 745.Ex.B         | am      | (P-10951)                    | (P-12835/97;A-2234) |
| 415.210          | 505.8130 | n  | (P-9543)                | 757.10           | am      | (P-16212/97;A-8810)(E-16416) | (P-7118)            |
| 415.410          | 505.8280 | n  | (P-9543)                | 757.100          | am      | (P-16212/97;A-8810)(E-16416) | (P-3380             |
| 416.10           | 505.8456 | n  | (P-9543)                | 757.105          | am      | (P-16212/97;A-8810)(E-16416) | am                  |
| 416.20           | 505.8456 | n  | (P-9543)                | 757.110          | am      | (P-16212/97;A-8810)(E-16416) | n                   |
| 416.30           | 505.8580 | n  | (P-9543)                | 757.115          | am      | (P-16212/97;A-8810)(E-16416) | #.am                |
| 418.10           | 506.10   | n  | (P-2042;A-9539)(E-2323) | 757.120          | am      | (P-16212/97;A-8810)(E-16416) | am                  |
| 418.15           | 506.20   | n  | (P-2042;A-9539)(E-2323) | 757.125          | am      | (P-16212/97;A-8810)(E-16416) | (P-6882)            |
| 418.20           | 506.30   | n  | (P-2042;A-9539)(E-2323) | 757.130          | am      | (P-16212/97;A-8810)(E-16416) | (P-6882)            |
| 418.100          | 595.110  | am | (P-11262)               | 757.200          | am      | (P-16212/97;A-8810)(E-16416) | (P-6882)            |
| 418.110          | 505.110  | am | (P-16215/97;A-11742)    | 757.205          | am      | (P-16212/97;A-8810)(E-16416) | am                  |
| 418.120          | 605.100  | am | (P-16215/97;A-11742)    | 757.210          | am      | (P-16212/97;A-8810)(E-16416) | am                  |
| 418.130          | 605.115  | am | (P-16215/97;A-11742)    | 757.215          | am      | (P-16212/97;A-8810)(E-16416) | n                   |
| 418.140          | 605.120  | am | (P-16215/97;A-11742)    | 757.220          | am      | (P-16212/97;A-8810)(E-16416) | am                  |
| 418.200          | 605.138  | n  | (P-16215/97;A-11742)    | 757.225          | r       | (P-16212/97;A-8810)(E-16416) | (P-6882)            |
| 418.210          | 605.140  | am | (P-16215/97;A-11742)    | 757.235          | am      | (P-16212/97;A-8810)(E-16416) | am                  |
| 450.10           | 605.165  | am | (P-16215/97;A-11742)    | 757.240          | r       | (P-16212/97;A-8810)(E-16416) | am                  |
| 450.20           | 605.175  | am | (P-16215/97;A-11742)    | 757.245          | am      | (P-16212/97;A-8810)(E-16416) | am                  |
| 450.30           | 605.180  | am | (P-16215/97;A-11742)    | 757.400          | n       | (P-16212/97;A-8810)(E-16416) | 495.105             |
| 450.40           | 605.185  | am | (P-16215/97;A-11742)    | 757.405          | n       | (P-16212/97;A-8810)(E-16416) | am                  |
| 450.50           | 605.190  | am | (P-16215/97;A-11742)    | 757.410          | n       | (P-16212/97;A-8810)(E-16416) | am                  |
| 450.60           | 605.193  | am | (P-16215/97;A-11742)    | 757.415          | n       | (P-16212/97;A-8810)(E-16416) | am                  |
| 450.70           | 605.198  | r  | (P-16215/97;A-11742)    | 757.420          | n       | (P-16212/97;A-8810)(E-16416) | am                  |
| 450.80           | 605.198  | am | (P-16215/97;A-11742)    | 757.425          | n       | (P-16212/97;A-8810)(E-16416) | am                  |
| 450.85           | 605.2720 | am | (P-16215/97;A-11742)    | 757.430          | n       | (P-16212/97;A-8810)(E-16416) | am                  |
| 450.90           | 605.Tb.A | am | (P-16215/97;A-11742)    | 757.Ex.A         | am      | (P-16212/97;A-8810)(E-16416) | (P-7895)            |
| 450.100          | 605.Tb.B | am | (P-16215/97;A-11742)    | 757.Ex.B         | am      | (P-16212/97;A-8810)(E-16416) | (P-8371)            |
| 450.110          | 650.10   | am | (P-1;A-11722)           | 757.Ex.C         | am      | (P-16212/97;A-8810)(E-16416) | (P-13060/97;A-2253) |
| 450.120          | 650.100  | am | (P-1;A-11722)           | 757.Ex.D         | am      | (P-16212/97;A-8810)(E-16416) | (P-13060/97;A-2253) |
| 450.130          | 650.115  | am | (P-1;A-11722)           | 757.Ex.E         | am      | (P-16212/97;A-8810)(E-16416) | (P-7550)            |
| 450.140          | 650.120  | am | (P-1;A-11722)           | 772.20           | am      | (P-1192)                     | am                  |
| 450.150          | 650.133  | n  | (P-1;A-11722)           | 772.45           | am      | (P-1192)                     | (P-13060/97;A-2253) |
| 450.160          | 650.140  | am | (P-1;A-11722)           | 772.50           | am      | (P-1192)                     | (P-13060/97;A-2253) |
| 450.170          | 650.165  | am | (P-1;A-11722)           | 772.55           | am      | (P-1192)                     | (P-13060/97;A-2253) |
| 450.20           | 650.170  | am | (P-1;A-11722)           | 772.90           | am      | (P-1192)                     | am                  |
| 450.210          | 650.175  | am | (P-1;A-11722)           | 772.95           | am      | (P-1192)                     | am                  |
| 450.410          | 650.180  | am | (P-1;A-11722)           | 772.135          | am      | (P-1192)                     | (P-7550)            |
| 450.470          | 650.185  | am | (P-1;A-11722)           | 766.10           | n       | (P-12886/97;A-3460)          | (P-13060/97;A-2253) |
| 450.500          | 650.193  | am | (P-1;A-11722)           | 766.15           | n       | (P-12886/97;A-3460)          | (P-13060/97;A-2253) |
| 450.500          | 650.193  | am | (P-1;A-11722)           | 766.20           | n       | (P-12886/97;A-3460)          | (P-13060/97;A-2253) |
| 450.590          | 650.198  | r  | (P-1;A-11722)           | 766.25           | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
| 450.1170         | 650.3330 | am | (P-1;A-11722)           | 766.100          | n       | (P-12886/97;A-3460)          | 501.200             |
| 450.1641         | Tb.A     | am | (P-1;A-11722)           | 766.100          | n       | (P-12886/97;A-3460)          | 501.300             |
| 450.1642         | Tb.B     | am | (P-1;A-11722)           | 766.110          | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
| 450.1643         | 745.10   | am | (P-10951)               | 766.300          | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
| 450.1643         |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |
|                  |          | n  |                         |                  | n       | (P-12886/97;A-3460)          | (P-13045/97;A-2230) |

|                  |                          |           |    |                       |                  |         |                              |                    |         |                     |                              |
|------------------|--------------------------|-----------|----|-----------------------|------------------|---------|------------------------------|--------------------|---------|---------------------|------------------------------|
| Title 83 (cont.) | (P-172;A-10899)(E-1006)  | 3000.800  | am | (P-7097)              | Title 89 (cont.) | 121.176 | am                           | (P-5410/97;A-5502) | 146.285 | n                   | (P-13760/97;A-4430)(E-13875) |
| 516.120          | (P-172;A-10899)(E-1006)  | 3000.1070 | am | (P-7097)              | 121.177          | n       | (P-9654)(E-10660)            | 148.25             | am      | (P-11881/97;A-1408) |                              |
| 516.130          | (P-172;A-10899)(E-1006)  | 3000.1071 | am | (P-93;A-10449)(E-978) | 121.178          | am      | (P-5410/97;A-5502)           | 148.82             | am      | (P-8356)            |                              |
| 517.100          | (P-2761;A-10907)(E-3141) | 3000.1125 | am | (P-13444/97;A-4390)   | 121.179          | am      | (P-9654)(E-10660)            | 148.140            | am      | (P-13032/97;A-3083) |                              |
| 517.110          | (P-2761;A-10907)(E-3141) | 3000.1126 | am | (P-13444/97;A-4390)   | 121.180          | re      | (P-5410/97;A-5502)           | 148.295            | am      | (P-6061;A-11514)    |                              |
| 517.120          | (P-2761;A-10907)(E-3141) |           |    |                       | 121.182          | am      | (P-8258)                     | 153.100            | am      | (P-7888)            |                              |
| 517.130          | (P-2761;A-10907)(E-3141) |           |    |                       | 121.184          | am      | (P-5410/97;A-5502)           | 160.30             | am      | (P-6050)            |                              |
| 530.125          | (P-7559)                 |           |    |                       | 121.188          | am      | (P-9654)(E-10660)            | 165.10             | am      | (P-10969)           |                              |
| 670.101          | (P-7564)                 | 10.430    | am | (P-11673)             | 121.188          | am      | (P-5410/97;A-5502)           | 220.600            | am      | (P-9890/97;A-3426)  |                              |
| 670.130          | (P-7564)                 | 101.120   | am | (P-120;A-6991)        | 121.220          | n       | (P-9654)(E-10660)            | 220.605            | am      | (P-9890/97;A-3426)  |                              |
| 680.101          | (P-7568)                 | 102.20    | am | (P-120)               | 121.221          | n       | (P-5410/97;A-5502)           | 220.610            | am      | (P-9890/97;A-3426)  |                              |
| 680.130          | (P-7568)                 | 103.10    | am | (P-9255)              | 121.222          | am      | (P-5410/97;A-5502)           | 220.615            | r       | (P-9890/97;A-3426)  |                              |
| 750.500          | (P-1113;A-10904)         | 112.52    | am | (P-11290)             | 121.221          | n       | (P-5410/97;A-5502)           | 220.620            | r       | (P-9890/97;A-3426)  |                              |
| 760.100          | (P-6605)                 | 112.68    | am | (P-6024)              | 121.222          | n       | (P-5410/97;A-5502)           | 220.625            | r       | (P-9890/97;A-3426)  |                              |
| 760.110          | (P-6605)                 | 112.78    | am | (P-6024)              | 121.223          | n       | (P-5410/97;A-5502)           | 220.630            | am      | (P-9890/97;A-3426)  |                              |
| 760.120          | (P-6605)                 | 112.79    | am | (P-10987)             | 121.224          | n       | (P-5410/97;A-5502)           | 220.635            | am      | (P-9890/97;A-3426)  |                              |
| 760.200          | (P-6605)                 | 112.110   | am | (P-10987)             | 121.225          | n       | (P-9654)(E-10660)            | 220.640            | am      | (P-9890/97;A-3426)  |                              |
| 760.210          | (P-6605)                 | 112.157   | am | (P-11266)             | 121.225          | n       | (P-9654)(E-10660)            | 220.645            | am      | (P-9890/97;A-3426)  |                              |
| 760.220          | (P-6605)                 | 112.158   | n  | (P-11266)             | 121.226          | n       | (P-9654)(E-10660)            | 220.650            | am      | (P-9890/97;A-3426)  |                              |
| 760.230          | (P-6605)                 | 112.305   | am | (P-9102)              | 130.2070         | am      | (P-11847)                    | 220.655            | am      | (P-9890/97;A-3426)  |                              |
| 760.240          | (P-6605)                 | 112.310   | n  | (P-11683;A-12197)     | 140.2            | am      | (P-152;A-7024)               | 220.660            | am      | (P-9890/97;A-3426)  |                              |
| 760.300          | (P-6605)                 | 112.408   | n  | (P-11279)             | 140.12           | am      | (P-13757/97;A-4412)          | 220.665            | r       | (P-9890/97;A-3426)  |                              |
| 760.310          | (P-6605)                 | 113.40    | am | (P-2513)              | 140.413          | am      | (P-152;A-7024)               | 220.670            | n       | (P-9890/97;A-3426)  |                              |
| 760.320          | (P-6605)                 | 113.50    | am | (P-2513)              | 140.451          | n       | (P-13757/97;A-4412)          | 220.675            | n       | (P-9890/97;A-3426)  |                              |
| 760.330          | (P-6605)                 | 113.50    | am | (P-10961)             | 140.461          | am      | (P-7534)                     | 230.610            | am      | (P-9917/97;A-3454)  |                              |
| 760.340          | (P-6605)                 | 113.50    | am | (P-10961)             | 140.463          | am      | (P-11005)                    | 230.650            | am      | (P-9917/97;A-3454)  |                              |
| 760.350          | (P-6605)                 | 113.50    | am | (P-10961)             | 140.470          | am      | (P-11889/97;A-1416)          | 240.230            | am      | (P-9623)            |                              |
| 760.360          | (P-6605)                 | 113.50    | am | (P-10961)             | 140.471          | am      | (P-11889/97;A-1416)          | 240.1400           | am      | (P-9879/97;A-3415)  |                              |
| 760.370          | (P-6605)                 | 113.50    | am | (P-10961)             | 140.472          | am      | (P-11889/97;A-1416)          | 240.1410           | am      | (P-9879/97;A-3415)  |                              |
| 760.380          | (P-6605)                 | 113.50    | am | (P-10961)             | 140.474          | am      | (P-11889/97;A-1416)          | 240.1430           | am      | (P-9879/97;A-3415)  |                              |
| 760.390          | (P-6605)                 | 113.50    | am | (P-10961)             | 140.475          | am      | (P-11889/97;A-1416)          | 240.1510           | am      | (P-9623)            |                              |
| 760.400          | (P-6605)                 | 113.50    | am | (P-10961)             | 140.539          | am      | (P-3727;A-10606)             | 240.1520           | am      | (P-9623)            |                              |
| 760.410          | (P-6605)                 | 113.50    | am | (P-10961)             | 144.275          | am      | (P-6033/97;A-9287)           | 240.1550           | am      | (P-9623)            |                              |
| 760.420          | (P-6605)                 | 113.50    | am | (P-10961)             | 144.300          | am      | (P-6033/97;A-9287)           | 240.1565           | am      | (P-9623)            |                              |
| 760.430          | (P-6605)                 | 113.50    | am | (P-10961)             | 144.325          | am      | (P-6033/97;A-9287)           | 240.1565           | am      | (P-9623)            |                              |
| 760.440          | (P-6605)                 | 113.50    | am | (P-10961)             | 144.325          | am      | (P-6033/97;A-9287)           | 240.1580           | am      | (P-9623)            |                              |
| 760.450          | (P-6605)                 | 113.50    | am | (P-10961)             | 146.200          | n       | (P-13760/97;A-4430)(E-13875) | 240.1605           | am      | (P-9623)            |                              |
| 760.460          | (P-6605)                 | 113.50    | am | (P-10961)             | 146.205          | n       | (P-13760/97;A-4430)(E-13875) | 240.1605           | am      | (P-9623)            |                              |
| 760.470          | (P-6605)                 | 113.50    | am | (P-10961)             | 146.210          | n       | (P-13760/97;A-4430)(E-13875) | 240.1605           | am      | (P-9623)            |                              |
| 760.480          | (P-6605)                 | 113.50    | am | (P-10961)             | 146.215          | n       | (P-13760/97;A-4430)(E-13875) | 240.1630           | am      | (P-9623)            |                              |
| 760.490          | (P-6605)                 | 113.50    | am | (P-10961)             | 146.220          | n       | (P-13760/97;A-4430)(E-13875) | 240.1630           | am      | (P-9623)            |                              |
| 760.500          | (P-6605)                 | 113.50    | am | (P-10961)             | 146.225          | n       | (P-13760/97;A-4430)(E-13875) | 240.1630           | am      | (P-9623)            |                              |
| 760.510          | (P-6605)                 | 113.50    | am | (P-10961)             | 146.230          | n       | (P-13760/97;A-4430)(E-13875) | 240.1630           | am      | (P-9623)            |                              |
| 760.520          | (P-6605)                 | 113.50    | am | (P-10961)             | 146.235          | n       | (P-13760/97;A-4430)(E-13875) | 240.1630           | am      | (P-9623)            |                              |
| 760.530          | (P-6605)                 | 113.50    | am | (P-10961)             | 146.240          | n       | (P-13760/97;A-4430)(E-13875) | 240.1630           | am      | (P-9623)            |                              |
| 760.540          | (P-6605)                 | 113.50    | am | (P-10961)             | 146.245          | n       | (P-13760/97;A-4430)(E-13875) | 240.1630           | am      | (P-9623)            |                              |
| 760.550          | (P-6605)                 | 113.50    | am | (P-10961)             | 146.250          | n       | (P-13760/97;A-4430)(E-13875) | 240.1630           | am      | (P-9623)            |                              |
| 760.560          | (P-6605)                 | 113.50    | am | (P-10961)             | 146.255          | n       | (P-13760/97;A-4430)(E-13875) | 240.1630           | am      | (P-9623)            |                              |
| 760.570          | (P-6605)                 | 113.50    | am | (P-10961)             | 146.260          | n       | (P-13760/97;A-4430)(E-13875) | 240.1630           | am      | (P-9623)            |                              |
| 760.580          | (P-6605)                 | 113.50    | am | (P-10961)             | 146.265          | n       | (P-13760/97;A-4430)(E-13875) | 240.1630           | am      | (P-9623)            |                              |
| 760.590          | (P-6605)                 | 113.50    | am | (P-10961)             | 146.270          | n       | (P-13760/97;A-4430)(E-13875) | 240.1630           | am      | (P-9623)            |                              |
| 760.600          | (P-6605)                 | 113.50    | am | (P-10961)             | 146.275          | n       | (P-13760/97;A-4430)(E-13875) | 240.1630           | am      | (P-9623)            |                              |
| 760.610          | (P-6605)                 | 113.50    | am | (P-10961)             | 146.280          | n       | (P-13760/97;A-4430)(E-13875) | 240.1630           | am      | (P-9623)            |                              |
| 760.620          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.630          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.640          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.650          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.660          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.670          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.680          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.690          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.700          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.710          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.720          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.730          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.740          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.750          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.760          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.770          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.780          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.790          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.800          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.810          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.820          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.830          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.840          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.850          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.860          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.870          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.880          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.890          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.900          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.910          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.920          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.930          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.940          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.950          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.960          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.970          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.980          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.990          | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 760.1000         | (P-6605)                 | 113.50    | am | (P-10961)             |                  |         |                              |                    |         |                     |                              |
| 3000.105         | (P-7097)                 | 3000.150  | n  | (P-13444/97;A-4390)   | 3000.221         | am      | (P-9113)                     | 300.20             | am      | (P-7802)            |                              |
| 3000.150         | (P-7097)                 | 3000.200  | am | (P-7097)              | 3000.222         | n       | (P-9113)                     | 300.110            | am      | (P-7802)            |                              |
| 3000.200         | (P-7097)                 | 3000.210  | am | (P-7097)              | 3000.223         | n       | (P-9113)                     | 300.120            | am      | (P-7802)            |                              |
| 3000.210         | (P-7097)                 | 3000.220  | am | (P-7097)              | 3000.224         | n       | (P-9113)                     | 300.160            | am      | (P-7802)            |                              |
| 3000.220         | (P-7097)                 | 3000.230  | am | (P-7097)              | 3000.225         | n       | (P-9113)                     | 300.170            | n       | (P-7802)            |                              |
| 3000.230         | (P-7097)                 | 3000.240  | am | (P-7097)              | 3000.226         | am      | (P-9113)                     | 302.300            | am      | (P-6375/97;A-8803)  |                              |
| 3000.240         | (P-7097)                 | 3000.250  | am | (P-7097)              | 3000.227         | am      | (P-9113)                     | 302.305            | am      | (P-6375/97;A-8803)  |                              |
| 3000.250         | (P-7097)                 | 3000.260  | am | (P-7097)              | 3000.228         | am      | (P-9113)                     | 302.310            | am      | (P-7424)            |                              |
| 3000.260         | (P-7097)                 | 3000.270  | am | (P-7097)              | 3000.229         | am      | (P-9113)                     | 302.315            | r       | (P-6375/97;A-8803)  |                              |
| 3000.270         | (P-7097)                 | 3000.280  | am | (P-7097)              | 3000.230         | am      | (P-9113)                     | 302.405            | am      | (P-7424)            |                              |
| 3000.280         | (P-7097)                 | 3000.290  | am | (P-7097)              | 3000.231         | am      | (P-9113)                     | 302.405            | am      | (P-7424)            |                              |
| 3000.290         | (P-7097)                 | 3000.300  | am | (P-7097)              | 3000.232         | am      | (P-9113)                     | 303.1              | r       | (P-8702/97;A-6937)  |                              |
| 3000.300         | (P-7097)                 | 3000.310  | am | (P-7097)              | 3000.233         | am      | (P-9113)                     | 303.2              | r       | (P-8702/97;A-6937)  |                              |
| 3000.310         | (P-7097)                 | 3000.320  | am | (P-7097)              | 3000.234         | am      | (P-9113)                     |                    |         |                     |                              |
| 3000.320         | (P-7097)                 | 3000.330  | am | (P-7097)              | 3000.235         | am      | (P-9113)                     |                    |         |                     |                              |
| 3000.330         | (P-7097)                 | 3000.340  | am | (P-7097)              | 3000.236         | am      | (P-9113)                     |                    |         |                     |                              |
| 3000.340         | (P-7097)                 | 3000.350  | am | (P-7097)              | 3000.237         | am      | (P-9113)                     |                    |         |                     |                              |

| Title 89 (cont.) |                    |   |           | Title 89 (cont.) |   |             |                             |
|------------------|--------------------|---|-----------|------------------|---|-------------|-----------------------------|
| 303.3 r          | (P-8702/97;A-6937) | n | 315.210   | (P-7770)         | n | 401.13 r    | (P-6286/97;A-10329)(E-9151) |
| 303.4 r          | (P-8702/97;A-6937) | n | 315.225   | (P-7770)         | n | 401.14 r    | (O-11985)(M-14379)          |
| 303.10 r         | (P-7736)           | n | 315.230   | (P-7770)         | n | 401.15 r    | (P-6286/97;A-10329)(E-9151) |
| 305.20 r         | (P-7736)           | n | 315.235   | (P-7770)         | n | 401.16 r    | (O-11985)                   |
| 305.30 r         | (P-7736)           | n | 315.240   | (P-7770)         | n | 401.17 r    | (P-6286/97;A-10329)(E-9151) |
| 305.40 r         | (P-7736)           | n | 315.245   | (P-7770)         | n | 401.18 r    | (O-11985)                   |
| 305.50 r         | (P-7736)           | n | 315.250   | (P-7770)         | n | 401.19 r    | (P-6286/97;A-10329)(E-9151) |
| 305.60 r         | (P-7736)           | n | 315.300   | (P-7770)         | n | 401.20 r    | (O-11985)                   |
| 305.70 r         | (P-7736)           | n | 315.305   | (P-7770)         | n | 401.21 r    | (P-6286/97;A-10329)(E-9151) |
| 305.80 r         | (P-7736)           | n | 315.310   | (P-7770)         | n | 401.22 r    | (O-11985)                   |
| 305.90 r         | (P-7736)           | n | 316.10    | (P-8597)         | n | 401.23 r    | (P-6286/97;A-10329)(E-9151) |
| 305.100 r        | (P-7736)           | n | 316.20    | (P-8597)         | n | 401.24 r    | (O-11985)                   |
| 305.110 r        | (P-7736)           | n | 316.30    | (P-8597)         | n | 401.25 r    | (P-6286/97;A-10329)(E-9151) |
| 305.120 r        | (P-7736)           | n | 316.40    | (P-8597)         | n | 401.26 r    | (O-11985)                   |
| 305.130 r        | (P-7736)           | n | 316.50    | (P-8597)         | n | 401.30 n    | (P-6286/97;A-10329)(E-9151) |
| 305.140 r        | (P-7736)           | n | 316.60    | (P-8597)         | n | 401.40 n    | (O-11985)(M-13929)          |
| 309.10 n         | (P-6349/97;A-8769) | n | 316.70    | (P-8597)         | n | 401.430 n   | (P-6286/97;A-10329)(E-9151) |
| 309.20 n         | (P-6349/97;A-8769) | n | 316.80    | (P-8597)         | n | 401.440 n   | (O-11985)                   |
| 309.30 n         | (P-6349/97;A-8769) | n | 316.90    | (P-8597)         | n | 401.450 n   | (P-6286/97;A-10329)(E-9151) |
| 309.40 n         | (P-6349/97;A-8769) | n | 316.100   | (P-8597)         | n | 401.460 n   | (O-11985)                   |
| 309.50 n         | (P-6349/97;A-8769) | n | 316.110   | (P-8597)         | n | 401.470 n   | (P-6286/97;A-10329)(E-9151) |
| 309.60 n         | (P-6349/97;A-8769) | n | 316.120   | (P-8597)         | n | 401.500 n   | (O-11985)                   |
| 309.70 n         | (P-6349/97;A-8769) | n | 316.130   | (P-8597)         | n | 401. Ap.A n | (P-6286/97;A-10329)(E-9151) |
| 309.80 n         | (P-6349/97;A-8769) | n | 316.140   | (P-8597)         | n | 401. Ap.B n | (O-11985)                   |
| 309.90 n         | (P-6349/97;A-8769) | n | 352.2     | am               |   | 401. Ap.C n | (P-6286/97;A-10329)(E-9151) |
| 309.100 n        | (P-6349/97;A-8769) | n | 352.3     | am               |   | 401. Ap.D n | (O-11985)                   |
| 309.110 n        | (P-6349/97;A-8769) | n | 352.4     | am               |   | 401. Ap.E n | (P-6286/97;A-10329)(E-9151) |
| 309.120 n        | (P-6349/97;A-8769) | n | 352.7     | am               |   |             |                             |
| 309.130 n        | (P-6349/97;A-8769) | n | 352. Ap.A | am               |   |             |                             |
| 309.140 n        | (P-6349/97;A-8769) | n | 360.3     | am               |   |             |                             |
| 309.150 n        | (P-6349/97;A-8769) | n | 401.1     | r                |   |             |                             |
| 309.160 n        | (P-6349/97;A-8769) | n |           |                  |   |             |                             |
| 309.170 n        | (P-6349/97;A-8769) | n | 401.2     | r                |   |             |                             |
| 309.180 n        | (P-6349/97;A-8769) | n | 401.4     | r                |   |             |                             |
| 309.190 n        | (P-6349/97;A-8769) | n | 401.5     | r                |   |             |                             |
| 315.10 n         | (P-7770)           | n | 401.6     | r                |   |             |                             |
| 315.20 n         | (P-7770)           | n | 401.7     | r                |   |             |                             |
| 315.30 n         | (P-7770)           | n | 401.8     | r                |   |             |                             |
| 315.40 n         | (P-7770)           | n | 401.9     | r                |   |             |                             |
| 315.50 n         | (P-7770)           | n | 401.10    | r                |   |             |                             |
| 315.60 n         | (P-7770)           | n | 401.11    | r                |   |             |                             |
| 315.70 n         | (P-7770)           | n | 401.12    | r                |   |             |                             |
| 315.80 n         | (P-7770)           | n |           |                  |   |             |                             |
| 315.100 n        | (P-7770)           | n |           |                  |   |             |                             |
| 315.110 n        | (P-7770)           | n |           |                  |   |             |                             |
| 315.120 n        | (P-7770)           | n |           |                  |   |             |                             |
| 315.130 n        | (P-7770)           | n |           |                  |   |             |                             |
| 315.140 n        | (P-7770)           | n |           |                  |   |             |                             |
| 315.150 n        | (P-7770)           | n |           |                  |   |             |                             |
| 315.160 n        | (P-7770)           | n |           |                  |   |             |                             |
| 315.200 n        | (P-7770)           | n |           |                  |   |             |                             |
| 315.205 n        | (P-7770)           | n |           |                  |   |             |                             |



[illegible]

## Title 92 (cont.)

440.20 am (P-10290)  
440.140 am (P-5833)  
440.210 am (P-5833)  
440.220 am (P-5833)  
440.305 am (P-5833)  
440.405 am (P-5833)  
440.410 am (P-5833)  
440.420 am (P-5833)  
440.505 am (P-5833)  
440.510 am (P-5833)  
440.II.A am (P-5833)  
440.II.B am (P-5833)  
440.Ap.A r (P-5833)  
440.Ap.B r (P-5833)  
440.Ap.C r (P-5833)  
441.10 am (P-15093/97;A-11889)  
441.25 am (P-15093/97;A-11889)  
441.40 am (P-15093/97;A-11889)  
441.Ap.A am (P-15093/97;A-11889)  
441.Ap.B am (P-15093/97;A-11889)  
441.Ap.C am (P-15093/97;A-11889)  
441.Ap.D am (P-15093/97;A-11889)  
441.Ap.E am (P-15093/97;A-11889)  
441.Ap.F am (P-15093/97;A-11889)  
441.Ap.G am (P-15093/97;A-11889)  
441.Ap.H am (P-15093/97;A-11889)  
441.Ap.I am (P-15093/97;A-11889)  
441.Ap.J am (P-15093/97;A-11889)  
441.Ap.K am (P-15093/97;A-11889)  
441.II.E am (P-15093/97;A-11889)  
441.II.F am (P-15093/97;A-11889)  
443.10 am (P-2914)  
443.25 am (P-2914)  
443.40 am (P-2914)  
443.Ap.A am (P-2914)  
443.Ap.B am (P-2914)  
Ap.C am (P-2914)  
Ap.D am (P-2914)  
Ap.E am (P-2914)  
Ap.F am (P-2914)  
Ap.G am (P-2914)  
Ap.H am (P-2914)  
Ap.I am (P-2914)  
Ap.J am (P-2914)  
Ap.K am (P-2914)  
II.A am (P-2914)  
II.E r (P-2914)  
II.F n (P-2914)  
445.10 am (P-2558)  
445.25 n (P-2558)  
445.40 am (P-2558)

SAI-45

## Title 92 (cont.)

1100.25 n (P-13149/97;A-2280)  
1100.30 r (P-13141/97;A-2278)  
1100.35 n (P-13149/97;A-2280)  
1100.40 n (P-13149/97;A-2280)

SAI-46

| ACTION CODES                             |  |
|--|--|
| A - Adopted Rule                         | P - Proposed Rule                      |
| AR - Adopted Repealer                    | PF - Prohibited Filing Order by JCAR*  |
| C - Notice of Corrections                | PP - Peremptory or Court Ordered Rules |
| CC - Codification Changes                | PR - Proposed Repealer                 |
| E - Emergency Rule                       | R - Refusal to meet JCAR* Objection    |
| ER - Emergency Repealer                  | RC - Statement of Recommendation       |
| M - Modification to meet JCAR*           | S - Suspension ordered by JCAR*        |
| Objections                               | W - Withdrawal to meet JCAR*           |
| O - JCAR* Statement of Objections        | Objections                             |
| RQ - Request for Correction              | MR - Modification and Refusal          |
| EC - Expedited Corrections               |  |
| *Joint Committee on Administrative Rules |  |

ALL RULES ARE LISTED BY PART NUMBER AND HEADING ONLY. (FOR ACTION ON SPECIFIC SECTIONS, PLEASE REFER TO THE SECTIONS AFFECTED INDEX.) IF THERE ARE ANY QUESTIONS, PLEASE CONTACT THE ADMINISTRATIVE CODE DIVISION AT (217) 782-7017.

|                                   |   |
|-----------------------------------|---|
| <b>AGING, DEPARTMENT ON</b>       |   |
| 89 Ill. Adm. Code 240             | Community Care Program (P-9879/97/A-3415) (P-9623)  |
| 89 Ill. Adm. Code 220             | General Programmatic Requirements (P-9890/97/A-3426)  |
| 89 Ill. Adm. Code 230             | Older Americans Act Programs (P-3454/97/A-3454)   |
| <b>AGRICULTURE, DEPARTMENT OF</b> |   |
| 8 Ill. Adm. Code 3                | Civil Administrative Code (P-6265/A-11698)  |
| 8 Ill. Adm. Code 116              | Equine Infectious Anemia Control (P-12024/97/W-1602)  |
| 8 Ill. Adm. Code 270              | Illinois State Fair, And Duquoin State Fair, Non-Fair Space Rental And The General Operation Of The State Fairgrounds (P-6280/A-11374)                          |
| 8 Ill. Adm. Code 258              | Land Application Authorization Program (P-10927)  |
| 8 Ill. Adm. Code 125              | Meat And Poultry Inspection Act (PP-3602) (PP-5740) (PP-9374)   |
| 8 Ill. Adm. Code 755              | Payment Of Eligible Claims Of Soil And Water Conservation District Employees Unpaid By Mid-Continent Medical Benefit Trust (P-2005) (E-2289) (P-9261/97/A-9261) |
| 8 Ill. Adm. Code 600              | Weights And Measures Act (P-13209/97/A-1141)  |
| <b>ATTORNEY GENERAL</b>           |   |
| 14 Ill. Adm. Code 485             | Immigration Services (P-7714)   |

|  |   |
|--|---|
| 89 Ill. Adm. Code 1100   | Programmatic And Fiscal Requirements For Administering Funds Under The Violent Crime Victims Assistance Act (P-3218)  |
| 44 Ill. Adm. Code 1300   | Standard Procurement (P-6288) (E-12013)   |
| <b>BOARD OF SAVINGS INSTITUTIONS</b>   |   |
| 38 Ill. Adm. Code 500  | Board Of Savings Institutions (P-16941/97/A-6642)   |
| <b>CAPITAL DEVELOPMENT BOARD</b>   |   |
| 44 Ill. Adm. Code 980  | Prequalification Of Architects And Engineers (PR-12779/97/AR-1152) (P-12764/97/A-1154)  |
| 44 Ill. Adm. Code 910  | Procurement Practices (P-12785/97/A-1169)   |
| 44 Ill. Adm. Code 1000   | Selection Of Architects/Engineers (A/E) (PR-12790/97/A-1174) (P-12797/97/A-1176)  |
| 71 Ill. Adm. Code 40   | Standards For Award Of Grants Elementary And Secondary Schools Capital Assistance Program (E-2597) (P-4534/A-9518) (RC-9599)  |
| <b>CARNIVAL-AMUSEMENT SAFETY BOARD</b>   |   |
| 56 Ill. Adm. Code 6000   | Carnival And Amusement Ride Inspection Law (P-3781/97/W-4499)   |
| <b>CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF</b>  |   |
| 44 Ill. Adm. Code 5000   | Acquisition, Management And Disposal Of Real Property (P-8053) (E-12569)  |
| 44 Ill. Adm. Code 10   | Business Enterprise Program: Contracting With Businesses Owned And Controlled By Minorities, Females And Persons With Disabilities (P-8933) (E-12584)   |
| 44 Ill. Adm. Code 5010   | Marking, Inventory, Transfer And Disposal Of State-Owned Personal Property (P-14699/97/A-6931)  |
| 80 Ill. Adm. Code 302  | Merit And Fitness (P-7727)  |
| 80 Ill. Adm. Code 310  | Pay Plan (PP-1593) (P-12803/97/A-2580) (PP-4326) (PP-5108) (PP-5749) (P-14648/97/A-6204) (P-15279/97/A-6204) (PP-7053) (PP-7320) (P-7385) (P-7692) (P-12422) (E-12607) Standard Procurement (PR-8067) (P-8154) (ER-12632) (E-12726) |
| 44 Ill. Adm. Code 1  | Standard Procurement (PR-8067) (P-8154)   |
| 80 Ill. Adm. Code 2800   | Travel (P-11665) (E-12082)  |
| 80 Ill. Adm. Code 3000   | Travel Regulation Council, The (P-4550/A-11713)   |
| <b>CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF HIGHER EDUCATION AND THE BOARD</b> |   |
| 44 Ill. Adm. Code 526  | Procurement Rules Of The Chief Procurement Officer For Public Institutions Of Higher Education And The Board Of Trustees Of Illinois Public Universities (P-10719)  |
| <b>CHILDREN AND FAMILY SERVICES, DEPARTMENT OF</b>   |   |



|                       |  |
|-----------------------|--|
| 83 Ill. Adm. Code 772 | Pay-Per-Call Services (P-8738/97;A-1192)   |
| 83 Ill. Adm. Code 595 | Reports Of Accidents Or Incidents By Persons Engaged In The Transportation Of Gas, Or Who Own Or Operate Gas Pipeline Facilities (P-11262) |
| 83 Ill. Adm. Code 410 | Standards Of Service For Electric Utilities (P-10949) (E-11215)  |
| 83 Ill. Adm. Code 745 | Tariff Filings (P-10951)   |
| 83 Ill. Adm. Code 766 | Telecommunications Enforcement (P-12886/97;A-3460)   |
| 83 Ill. Adm. Code 757 | Telephone Assistance Programs (P-16212/97;A-8810)  |
| 83 Ill. Adm. Code 415 | Uniform System Of Accounts For Electric Utilities (P-9926/97;A-6647)   |
| 83 Ill. Adm. Code 505 | Uniform System Of Accounts For Gas Utilities (P-15072/97;A-9543)   |
| 83 Ill. Adm. Code 650 | Uniform System Of Accounts For Sewer Utilities (P-1;A-11722)   |
| 83 Ill. Adm. Code 605 | Uniform System Of Accounts For Water Utilities (P-16215/97;A-11742)  |

**COMMUNITY COLLEGE BOARD, ILLINOIS**  
Administration Of The Illinois Public Community College Act (P-5968/97;A-2087) (RC-11645)

|                        |   |
|------------------------|---|
| 44 Ill. Adm. Code 1120 | Standard Procurement (P-8955) (E-12087) |
|------------------------|---|

|                       |  |
|-----------------------|--|
| 20 Ill. Adm. Code 505 | Closed Maximum Security Facility (P-12274/97;A-1199) |
| 20 Ill. Adm. Code 504 | Discipline And Grievances (P-12281/97;A-1206)        |
| 20 Ill. Adm. Code 720 | Municipal Jail And Lockup Standards (P-8608)         |

**CRIMINAL JUSTICE INFORMATION AUTHORITY, ILLINOIS**  
Fees For Processing Requests For Conviction Information (P-21;A-9557) (E-975)

|                        |   |
|------------------------|---|
| 89 Ill. Adm. Code 507  | Audit Requirements (P-11667) (E-12154)                  |
| 77 Ill. Adm. Code 2030 | Award And Monitoring Of Funds (P-11669) (E-12158)       |
| 89 Ill. Adm. Code 716  | Case Management Services To Persons With AIDS (PR-7820) |
| 89 Ill. Adm. Code 50   | Child Care (P-12425) (E-12816)                          |
| 89 Ill. Adm. Code 165  | Collections And Recoveries (P-10969)                    |
| 59 Ill. Adm. Code 121  | Early Intervention Program (P-6673/97;A-7962)           |
| 89 Ill. Adm. Code 10   | General Administrative Provisions (P-11673)             |
| 89 Ill. Adm. Code 114  | General Assistance (P-10973) (P-11279)                  |
| 59 Ill. Adm. Code 103  | Grants (P-11677) (E-12176)                              |

|                       |  |
|-----------------------|--|
| 89 Ill. Adm. Code 303 | Access To And Eligibility For Day Care Services (PR-8702/97;AR-6937)   |
| 89 Ill. Adm. Code 316 | Administrative Case Reviews And Court Hearings (P-8597)  |
| 89 Ill. Adm. Code 309 | Adoption Services For Children For Whom the Department Of Children And Family Services is Legally Responsible (P-6349/97;A-8769) |
| 89 Ill. Adm. Code 305 | Client Service Planning (PR-7736)  |
| 89 Ill. Adm. Code 431 | Confidentiality Of Personal Information Of Persons Served By The Department Of Children And Family Services (P-7759)             |
| 89 Ill. Adm. Code 437 | Department Of Children And Family Services Employee Conflict Of Interest (P-8709/97;A-5484) (P-11254)                            |
| 89 Ill. Adm. Code 352 | Financial Responsibility Of Parents Or Guardians Of The Estates Of Children (P-8726/97;A-6939)                                   |
| 89 Ill. Adm. Code 360 | Grants-In-Aid (P-10941)  |
| 89 Ill. Adm. Code 401 | Licensing Standards For Child Welfare Agencies (P-6286/97;A-10329)   |
| 89 Ill. Adm. Code 407 | Licensing Standards For Day Care Centers (P-169/97;A-1728)   |
| 89 Ill. Adm. Code 402 | Licensing Standards For Foster Family Homes (P-15821/97;A-205)   |
| 89 Ill. Adm. Code 315 | Permanency Planning (P-7770)   |
| 89 Ill. Adm. Code 300 | Reports Of Child Abuse And Neglect (P-7802)  |
| 89 Ill. Adm. Code 302 | Services Delivered By The Department (P-15051/97;A-7140) (E-7289) (P-7424) (P-6375/97;A-8803)                                    |

**COMMERCE AND COMMUNITY AFFAIRS, DEPARTMENT OF**  
Illinois Promotion Act Programs (P-2007;A-10394)  
Job Training And Economic Development Demonstration Program (P-12063/97;A-1182)  
Local Tourism And Convention Bureau Program (P-1062;A-10425)  
State Administration Of The Federal Community Development Block Grant Program For Small Cities (P-6134/97;A-1910)  
Welfare-To-Work Block Grant Program (P-2470) (E-2612)

|                       |   |
|-----------------------|---|
| 83 Ill. Adm. Code 416 | Accounting For Non-Public Utility Business Of Electric Utilities (P-2039;A-9535) (E-2318) |
| 83 Ill. Adm. Code 506 | Accounting For Non-Public Utility Business Of Gas Utilities (P-2042;A-9539) (E-2323)      |
| 83 Ill. Adm. Code 411 | Electric Reliability (P-10945) (E-11177)  |
| 83 Ill. Adm. Code 418 | Municipal Electric Tax Rates (P-7083) (E-7304)  |
| 83 Ill. Adm. Code 450 | Non-Discrimination In Affiliate Transactions For Electric Utilities (P-10947) (E-11204)   |

| ILLINOIS REGISTER                                     |   | ILLINOIS REGISTER   |   |
|---|---|---|---|
| Vol. 22, Issue #29                                    | CUMULATIVE INDEX  | Vol. 22, Issue #29  | CUMULATIVE INDEX  |
| July 17, 1998   |   | July 17, 1998   |   |
| 59 Ill. Adm. Code 120                                 | Medicaid Home And Community-Based Services<br>Waiver Program For Individuals With<br>Developmental Disabilities (P-11679) (E-12185) | 26 Ill. Adm. Code 201   | Established Political Party And Independent<br>Candidate Nominating Petitions (P-7858)  |
| 59 Ill. Adm. Code 119                                 | Minimum Standards For Certification Of<br>Developmental Training Programs (P-7086)<br>(P-6680/97;A-7978)                            | 26 Ill. Adm. Code 202   | New Political Party Nominating Petitions<br>(P-7862)  |
| 59 Ill. Adm. Code 113                                 | Minimum Standards For Licensure Of Community<br>Residential Alternatives (PR-6354) (W-6780)   | 26 Ill. Adm. Code 216   | Registration Of Voters (P-7866)   |
| 89 Ill. Adm. Code 676                                 | Program Description (P-7827)  | <b>EMERGENCY MANAGEMENT AGENCY, ILLINOIS</b>                        |   |
| 89 Ill. Adm. Code 686                                 | Provider Requirements, Type Services, And Rates<br>Of Payment (P-7832)  | 29 Ill. Adm. Code 620   | Emergency Planning And Community Right-To-Know<br>(P-7789/97;A-1294)  |
| 89 Ill. Adm. Code 684                                 | Service Planning And Provision (P-8634)   | <b>ENVIRONMENTAL PROTECTION AGENCY</b>                              |   |
| 89 Ill. Adm. Code 112                                 | Temporary Assistance For Needy Families (P-4354)<br>(E-4466) (P-10987) (P-11290) (P-11683)<br>(E-12197)                             | 35 Ill. Adm. Code 186   | Accreditation Of Laboratories For Drinking<br>Water, Wastewater And Hazardous Waste Analysis<br>(P-6979/97;A-5546)  |
| <b>EASTERN ILLINOIS UNIVERSITY, BOARD OF TRUSTEES</b> |   | 35 Ill. Adm. Code 885   | Brownfield Redevelopment Grant Program (P-10790)  |
| 2 Ill. Adm. Code 6000                                 | Organization And Public Information (A-9560)  | 35 Ill. Adm. Code 355   | Determination Of Ammonia Nitrogen Water Quality<br>Based Effluent Limits For Discharges To<br>General Use Waters (P-12442)  |
| <b>EDUCATION, STATE BOARD OF</b>                      |   | 35 Ill. Adm. Code 663   | Procedures And Requirements For Determining Loan<br>Priorities Of Projects In The Public Water<br>Supply Loan Program (A-3764)  |
| 23 Ill. Adm. Code 160                                 | Block Grant For School Improvement (P-4557)   | 35 Ill. Adm. Code 352   | Procedures For Determining Water Quality Based<br>Discharge Elimination System Dischargers To<br>The Lake Michigan Basin (P-13416/97;A-4356)<br>(RC-4513)   |
| 23 Ill. Adm. Code 25                                  | Certification (P-4562;A-11767) (E-5097)<br>(P-12427)  | 35 Ill. Adm. Code 662   | Procedures For Issuing Loans From The Public<br>Water Supply Loan Program (A-3782)  |
| 23 Ill. Adm. Code 650                                 | Charter Schools (E-1479) (P-3252) (E-5104)<br>(P-6005)  | 35 Ill. Adm. Code 580   | Procedures For Reporting Releases Of Livestock<br>Waste From Lagoons (P-7091)   |
| 23 Ill. Adm. Code 252                                 | Driver Education (P-15296/97;A-7577)  | 35 Ill. Adm. Code 251   | Procedures For The Collection Of Air Pollution<br>Site Fees (RC-4512) (P-8759/97;A-6652)<br>(M-6781)  |
| 23 Ill. Adm. Code 150                                 | Elementary And Secondary School Capital<br>Assistance Program (PR-2472;A-12505)   | 35 Ill. Adm. Code 252   | Public Participation In The Air Pollution<br>Control Permit Program (P-10807)   |
| 23 Ill. Adm. Code 50                                  | Evaluation Of Certified School District<br>Employees In Contractual Continued Service<br>(P-1081;A-12507)                           | 35 Ill. Adm. Code 187   | Regulatory Innovation Projects<br>(P-13224/97;A-6217)   |
| 23 Ill. Adm. Code 180                                 | Health/Life Safety Code For Public Schools<br>(P-4564;A-12514)  | <b>ENVIRONMENTAL PROTECTION AGENCY/NUCLEAR SAFETY/PUBLIC HEALTH</b> |   |
| 23 Ill. Adm. Code 56                                  | Insurance For Certified Employees (P-9402)<br>(E-9580)  | 35 Ill. Adm. Code 183   | Joint Rules Of The Illinois Environmental<br>Protection Agency, The Illinois Department Of<br>Public Health And The Illinois Department Of<br>Nuclear Safety: Certification And Operation Of<br>Environmental Laboratories (P-23)<br>(P-6948/97;A-5643) |
| 23 Ill. Adm. Code 451                                 | Private Business And Vocational Schools<br>(P-15303/97;A-7584)  | <b>FINANCIAL INSTITUTIONS, DEPARTMENT OF</b>                        |   |
| 23 Ill. Adm. Code 1                                   | Public Schools Evaluation, Recognition And<br>Supervision (P-9404)  | 38 Ill. Adm. Code 110   | Consumer Installment Loan Act (E-1485) (P-3258)   |
| 23 Ill. Adm. Code 275                                 | Pupil Transportation (P-4583;A-12533)   | 38 Ill. Adm. Code 140   | Financial Planning And Management Service Act<br>(E-1528) (P-3300;A-12550)  |
| 23 Ill. Adm. Code 260                                 | Reading Improvement Program (P-12435)   | <b>ELECTIONS, STATE BOARD OF</b>                                    |   |
| 23 Ill. Adm. Code 151                                 | School Construction Program (P-2485;A-12538)<br>(E-2616) (M-4500) (O-4506) (RC-4511) (E-6238)<br>(O-6782) (M-7703) (RC-8040)        | 26 Ill. Adm. Code 204   |   |
| 23 Ill. Adm. Code 575                                 | School Technology Program (P-9464) (E-9591)   |   |   |
| 23 Ill. Adm. Code 170                                 | Sprinkler Systems (PR-4588;AR-12548)  |   |   |
| 23 Ill. Adm. Code 145                                 | Temporary Relocation Expenses (P-7843)  |   |   |
| Approval Of Voting Systems (P-7853)                   |   |   |   |

| ILLINOIS REGISTER                                     |  | ILLINOIS REGISTER                                      |  |
|---|--|--|--|
| Vol. 22, Issue #29                                    | CUMULATIVE INDEX   | Vol. 22, Issue #29                                     | CUMULATIVE INDEX   |
| JULY 17, 1998   |  | JULY 17, 1998  |  |
| 38 Ill. Adm. Code 190                                 | Illinois Credit Union Act (P-6012)   | 44 Ill. Adm. Code 750                                  | Procedures Applicable To All Agencies (P-5170/A-11774)   |
| 38 Ill. Adm. Code 160                                 | Sales Finance Agency Act (E-1543) (P-3314)   | <b>HUMAN SERVICES, DEPARTMENT OF</b>                   |  |
| 38 Ill. Adm. Code 130                                 | Schedules Of Maximum Rates To Be Charged For Check Cashing And Writing Of Money Orders By Community And Ambulatory Currency Exchanges (P-6019) | 89 Ill. Adm. Code 113                                  | Aid To The Aged, Blind Or Disabled (P-2513) (P-10961) (P-11266)  |
| <b>FIRE MARSHAL, OFFICE OF THE STATE</b>              |  | 89 Ill. Adm. Code 886                                  | Centers For Independent Living (A-3869)  |
| 41 Ill. Adm. Code 120                                 | Boiler And Pressure Vessel Safety (P-6786)   | 89 Ill. Adm. Code 144                                  | Developmental Disabilities Services (P-9287/97/A-9287)   |
| 41 Ill. Adm. Code 140                                 | Policy And Procedures Manual For Fire Protection Personnel (P-13238/97/A-1314)   | 77 Ill. Adm. Code 2055                                 | Drug Abuse Programs (PR-9020)  |
| 41 Ill. Adm. Code 170                                 | Storage, Transportation, Sale And Use Of Petroleum And Other Regulated Substances (P-8639)   | 89 Ill. Adm. Code 121                                  | Food Stamps (P-1647/A-7969) (E-1954) (P-5410/97/A-5502) (W-7361) (P-8258) (P-9654) (E-10660) (P-11671) (E-12167)                           |
| 41 Ill. Adm. Code 180                                 | Storage, Transportation, Sale And Use Of Gasoline And Volatile Oils (A-3836)   | 89 Ill. Adm. Code 688                                  | Illinois Long-Term Care Partnership Program (P-2945/97/A-5890)   |
| <b>GAMING BOARD, ILLINOIS</b>                         |  | 59 Ill. Adm. Code 50                                   | Office Of Inspector General Investigations Of Alleged Abuse Or Neglect And Deaths In State-Operated And Community Agency Facilities (P-95) |
| 86 Ill. Adm. Code 3000                                | Riverboat Gambling (P-93/A-10449) (E-978) (P-13444/97/A-4390) (P-7097) (P-9113)  | 89 Ill. Adm. Code 686                                  | Provider Requirements, Type Services, And Rates Of Payment (P-8272)  |
| <b>GOVERNOR, OFFICE OF THE</b>                        |  | 89 Ill. Adm. Code 117                                  | Related Program Provisions (P-8278) (P-10983)  |
| 44 Ill. Adm. Code 1500                                | Supplemental Procurement Rules (P-12458) (E-12823)   | 59 Ill. Adm. Code 115                                  | Standards And Licensure Requirements For Community-Integrated Living Arrangements (P-6695/97/A-8382)                                       |
| <b>HEALTH CARE COST CONTAINMENT COUNCIL, ILLINOIS</b> |  | 77 Ill. Adm. Code 2090                                 | Subacute Alcoholism And Substance Abuse Treatment Services (P-13993/97/A-5895) (P-11681) (E-12189)   |
| 77 Ill. Adm. Code 2510                                | Data Collection (P-12661/97/A-1325)  | 89 Ill. Adm. Code 112                                  | Temporary Assistance For Needy Families (P-6024) (P-9102)  |
| <b>HEALTH FACILITIES PLANNING BOARD</b>               |  | 77 Ill. Adm. Code 672                                  | WIC Vendor Management Code (P-2643) (E-3127)   |
| 77 Ill. Adm. Code 1100                                | Narrative And Planning Policies (P-9134)   | <b>ILLINOIS FARM DEVELOPMENT AUTHORITY</b>             |  |
| 77 Ill. Adm. Code 1110                                | Processing, Classification Policies And Review Criteria (P-9163)   | 8 Ill. Adm. Code 1400                                  | Illinois Farm Development Authority (P-7060/97/A-3467)   |
| <b>HOUSING DEVELOPMENT AUTHORITY, ILLINOIS</b>        |  | <b>ILLINOIS PUBLIC UNIVERSITIES, BOARD OF TRUSTEES</b> |  |
| 47 Ill. Adm. Code 365                                 | Affordable Housing Bond Program (A-3846)   | 44 Ill. Adm. Code 525                                  | Joint Rules Of The Illinois Public Universities: Procurement And Bidding (PR-10814)  |
| 47 Ill. Adm. Code 360                                 | Affordable Housing Program (P-13733/97/A-4321)   | <b>INSURANCE, DEPARTMENT OF</b>                        |  |
| 47 Ill. Adm. Code 260                                 | Homeowner Mortgage Revenue Bond Program (A-3851)   | 50 Ill. Adm. Code 1407                                 | Accelerated Life Benefit/Terminal Illness/Qualified Conditions (P-8652)  |
| 47 Ill. Adm. Code 310                                 | Multifamily Rental Housing Mortgage Loan Program (A-3854)  | 50 Ill. Adm. Code 909                                  | Advertising And Sales Promotion Of Life Insurance And Annuities (P-2548/97/A-3027) (P-7439)  |
| 47 Ill. Adm. Code 220                                 | Single Family Mortgage Purchase Program (A-3861)   | 50 Ill. Adm. Code 4202                                 | Cost Containment Form And Data Reporting Requirements (PR-12889/97/AR-4851)  |
| 47 Ill. Adm. Code 250                                 | Single Family Mortgage Purchase Program II (A-3865)  | 50 Ill. Adm. Code 4402                                 | Definition Of Salary (P-5775)  |
| <b>HUMAN RIGHTS COMMISSION</b>                        |  | 50 Ill. Adm. Code 806                                  | Derivative Instruments (P-4593)  |
| 56 Ill. Adm. Code 5300                                | Procedural Rules (P-12372/97/A-1336)   |  |  |
| <b>HUMAN RIGHTS, DEPARTMENT OF</b>                    |  |  |  |
| 2 Ill. Adm. Code 926                                  | Access To Information (A-1346)   |  |  |
| 38 Ill. Adm. Code 800                                 | Financial Institutions (P-3792/97/A-6659)  |  |  |



| ILLINOIS REGISTER                         |   |  | JULY 17, 1998          |   |
|---|---|--|------------------------|---|
| Vol. 22, Issue #29                        | CUMULATIVE INDEX  |  | JULY 17, 1998          |   |
| 50 Ill. Adm. Code 4405                    | Electronic Filing (P-5778)  |  | 17 Ill. Adm. Code 2010 | Boat And Snowmobile Registration And Safety (P-8664)  |
| 50 Ill. Adm. Code 4401                    | Examination And Audit Procedure (P-5782)  |  | 62 Ill. Adm. Code 1800 | Bonding And Insurance Requirements For Surface Coal Mining And Reclamation Operations (P-5195)  |
| 50 Ill. Adm. Code 5421                    | Health Maintenance Organization (P-15086/97;A-6671)   |  | 17 Ill. Adm. Code 130  | Camping On Department Of Natural Resources Properties (P-14144/97;A-3076)   |
| 50 Ill. Adm. Code 1406                    | Individual And Group Life Insurance Policy Instructions (P-12382/97;A-3038) (P-11685)                     |  | 17 Ill. Adm. Code 530  | Cock Pheasant, Hungarian Partridge, Bobwhite Quail, And Rabbit Hunting (P-8667)   |
| 50 Ill. Adm. Code 4201                    | Insurance Cost Containment Annual Fee (P-11000)   |  | 17 Ill. Adm. Code 830  | Commercial Fishing And Musseling In Certain Waters Of The State (P-16948/97;A-6697)   |
| 50 Ill. Adm. Code 4203                    | Insurance Cost Containment Data And Reporting Requirements (P-12944/97;A-4853)                            |  | 17 Ill. Adm. Code 1522 | Conservation 2000 - Natural Resources Cost-Share Program (P-12993/97;A-2141)  |
| 50 Ill. Adm. Code 4430                    | Investment Fee Disclosure Requirements For Pension Funds (P-16946/97;A-6692)                              |  | 17 Ill. Adm. Code 2520 | Consignment Of Licenses, Stamps And Permits (P-4225;A-10466)  |
| 50 Ill. Adm. Code 930                     | Life Insurance Solicitation (P-4917/97;A-3058)  |  | 17 Ill. Adm. Code 740  | Crow, Woodcock, Snipe, Rail And Teal Hunting (P-8291)   |
| 50 Ill. Adm. Code 4435                    | Noncompliance Notification And Penalties (P-2645;A-10459)   |  | 62 Ill. Adm. Code 1840 | Department Inspections (P-5201)   |
| 50 Ill. Adm. Code 4415                    | Payment Of Annual Compliance Fees For Pension Funds (P-2487;A-7987)                                       |  | 17 Ill. Adm. Code 730  | Dove Hunting (P-8301)   |
| 50 Ill. Adm. Code 4404                    | Portability Of Creditable Service Time For Downstate And Suburban Police Pension Fund (P-16241/97;A-8391) |  | 17 Ill. Adm. Code 590  | Duck, Goose And Coot Hunting (P-12805/97;A-2182)  |
| 50 Ill. Adm. Code 2051                    | Preferred Provider Program Administrators (RQ-2456) (EC-5126)   |  | 62 Ill. Adm. Code 1702 | Exemption For Coal Extraction Incidental To The Extraction Of Other Minerals (CC-7712)  |
| 50 Ill. Adm. Code 935                     | Revision Of The Minimum Mortality Standard For Valuation Of Annuity And Pure Endowment Contracts (P-8658) |  | 17 Ill. Adm. Code 1536 | Forestry Development Cost-Share Program (P-2651;A-10473)  |
| 50 Ill. Adm. Code 4425                    | Securities Custody Affidavit (P-7444)   |  | 62 Ill. Adm. Code 1701 | General Definitions (P-5207)  |
| 50 Ill. Adm. Code 5100                    | Small Employer Carrier Actuarial Certification And Documentation Requirements (P-12072/97;A-2103)         |  | 17 Ill. Adm. Code 510  | General Hunting And Trapping On Department-Owned Or -Managed Sites (P-8724)   |
| 50 Ill. Adm. Code 936                     | Supplemental Reports For Property And Casualty Insurance Companies (P-5177)                               |  | 17 Ill. Adm. Code 3040 | Illinois Bicycle Path Grant Program (P-15995/97;A-4902)   |
| 50 Ill. Adm. Code 2012                    | Traditional Long-Term Care Insurance (P-11380/97;A-2105)  |  | 68 Ill. Adm. Code 900  | Illinois Weather Modification Control Act (PR-3660;AR-10845)  |
| <b>LABOR, DEPARTMENT OF</b>               |   |  | 17 Ill. Adm. Code 570  | Muskrat, Mink, Raccoon, Opossum, Striped Skunk, Weasel, Red Fox, Gray Fox, Coyote, Badger, Beaver And Woodchuck (Groundhog) Trapping (P-8313) |
| 56 Ill. Adm. Code 350                     | Health And Safety (P-8283)  |  | 17 Ill. Adm. Code 3025 | Open Space Lands Acquisition And Development Grant Program (P-8729) (CC-9602)   |
| <b>LIEUTENANT GOVERNOR, OFFICE OF THE</b> |   |  | 17 Ill. Adm. Code 2080 | Operation Of Watercraft Carrying Passengers For Hire On Illinois Waters (P-4232;A-10491)  |
| 44 Ill. Adm. Code 1600                    | Supplemental Procurement Rules (P-12461) (E-12893)  |  | 62 Ill. Adm. Code 1817 | Permanent Program Performance Standards--Underground Mining Operations (P-5235)   |
| <b>LOTTERY, DEPARTMENT OF</b>             |   |  | 62 Ill. Adm. Code 1816 | Permanent Program Performance Standards-Surface Mining Activities (P-5264)  |
| 11 Ill. Adm. Code 1770                    | Lottery (general) (P-1650;A-9307) (E-1964) (O-2639) (O-8041)  |  | 62 Ill. Adm. Code 1778 | Permit Applications--Minimum Requirements For Legal, Financial, Compliance, And Related Information (P-5294)                                  |
| <b>NATURAL RESOURCES, DEPARTMENT OF</b>   |   |  | 23 Ill. Adm. Code 3200 | Public Museum Financial Support (CC-11230)  |
| 62 Ill. Adm. Code 2501                    | Abandoned Mined Lands Reclamation (P-6406;A-11382)  |  |                        |   |
| 62 Ill. Adm. Code 1847                    | Administrative And Judicial Review (P-5183)   |  |                        |   |
| 62 Ill. Adm. Code 1761                    | Areas Designated By Act Of Congress (P-5190)  |  |                        |   |

17 Ill. Adm. Code 110 Public Use Of State Parks And Other Properties Of The Department Of Natural Resources (P-8743)

17 Ill. Adm. Code 550 Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote And Woodchuck (Groundhog) Hunting (P-8321)

62 Ill. Adm. Code 1773 Requirements For Permits And Permit Processing (P-5299)

62 Ill. Adm. Code 1785 Requirements For Permits For Special Categories Of Mining (P-5306)

62 Ill. Adm. Code 1774 Revision; Renewal; And Transfer, Assignment, Or Sale Of Permit Rights (P-5313)

44 Ill. Adm. Code 1150 Selection Of Contractors And Consultants For Abandoned Mined Lands Reclamation Projects (P-6437)

62 Ill. Adm. Code 1825 Special Permanent Program Performance Standards-- Operations On High Capability Lands (P-5319)

62 Ill. Adm. Code 1823 Special Program Performance Standards-- Operations On Prime Farmland (P-5323)

17 Ill. Adm. Code 810 Sport Fishing Regulations For The Waters Of Illinois (P-15309/97;A-4930)

17 Ill. Adm. Code 690 Squirrel Hunting (P-8329)

62 Ill. Adm. Code 1764 State Processes For Designating Areas Unsuitable For Surface Coal Mining Operations (P-5329)

62 Ill. Adm. Code 300 Surface Mined Land Conservation And Reclamation Act (P-2668;A-8407)

62 Ill. Adm. Code 240 The Illinois Oil And Gas Act (E-988) (P-2044;A-8422) (P-2495;A-8845) (P-11301)

17 Ill. Adm. Code 880 The Taking Of Reptiles And Amphibians (P-8747)

17 Ill. Adm. Code 720 The Taking Of Wild Turkeys-Fall Archery Season (P-8337)

17 Ill. Adm. Code 715 The Taking Of Wild Turkeys-Fall Gun Season (P-8347)

17 Ill. Adm. Code 710 The Taking Of Wild Turkeys-Spring Season (P-13465/97;A-2192)

62 Ill. Adm. Code 1850 Training, Examination And Certification Of Blasters (P-5336)

17 Ill. Adm. Code 120 Water Withdrawal From State Areas (P-13480/97;A-2591)

17 Ill. Adm. Code 670 White-Tailed Deer Hunting By Use Of Bow And Arrow (P-2678) (A-7995)

17 Ill. Adm. Code 650 White-Tailed Deer Hunting By Use Of Firearms (P-2690;A-8007)

17 Ill. Adm. Code 660 White-Tailed Deer Hunting Season By Use Of Muzzleloading Rifles (P-2708;A-8026)

17 Ill. Adm. Code 680 White-Tailed Deer Hunting Season By Use Of Handguns (P-8751)

NUCLEAR SAFETY, DEPARTMENT OF

32 Ill. Adm. Code 406 Certification And Operation Of Radiochemistry Laboratories (P-14705/97;A-5001)

32 Ill. Adm. Code 331 Fees For Radioactive Material Licenses (P-1679;A-6951)

35 Ill. Adm. Code 195 Joint Rules Of The Illinois Environmental Protection Agency, The Illinois Department Of Public Health And The Illinois Department Of Nuclear Safety: Certification And Operation Of Environmental Laboratories (P-1088)

32 Ill. Adm. Code 330 Licensing Of Radioactive Material (P-6039) (E-6242)

32 Ill. Adm. Code 422 Licensing Of Radon Detection And Mitigation Services (E-1568) (P-3338) (A-10499)

32 Ill. Adm. Code 420 Registration Of Radon Detection And Mitigation Services (P-3393) (AR-10565)

32 Ill. Adm. Code 360 Use Of X-Rays In The Healing Arts Including Medical, Dental, Podiatry, And Veterinary Medicine (P-14423/97;A-5904)

32 Ill. Adm. Code 610 Volunteered Location(s) Procedures For Selecting A Site For The Development Of A Low-Level Radioactive Waste Disposal Facility (PR-1712;AR-9569)

OFFICE OF BANKS AND REAL ESTATE

38 Ill. Adm. Code 392 Hearings Before The Office Of Banks And Real Estate (P-8239)

38 Ill. Adm. Code 900 Hearings For Removal Of Directors, Officers, Employees Or Agents Of A State Bank Or Corporate Fiduciary (P-8251)

38 Ill. Adm. Code 360 Licensing And Regulation Of Pawnbrokers (E-12963)

38 Ill. Adm. Code 390 Public Hearings On Acquisitions Of Illinois Banks Or Illinois Bank Holding Companies By Midwest Bank Holding Companies (PR-115;AR-6705)

68 Ill. Adm. Code 1455 Real Estate Appraiser Certification (E-4132) (E-8534) (ER-12979) (E-13011)

38 Ill. Adm. Code 356 Reimbursement To Banks And Corporate Fiduciaries For Financial Records (P-8245)

38 Ill. Adm. Code 1050 Residential Mortgage License Act Of 1987 (P-12815/97;A-230)

38 Ill. Adm. Code 300 Reverse Mortgage Loans (P-8248)

38 Ill. Adm. Code 1000 Savings And Loan Act Of 1985 (P-16243/97;A-6707)

38 Ill. Adm. Code 1075 Savings Bank Act (P-16255/97;A-6719)

POLLUTION CONTROL BOARD

35 Ill. Adm. Code 211 Definitions And General Provisions (P-13486/97;A-3497) (P-7450;A-11405)

35 Ill. Adm. Code 304 Effluent Standards (P-8780/97;A-1351) (P-13500/97;A-3512) (P-9657)

Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities (P-10742/97;A-636)  
(P-14779/97;A-7638) (P-10170)  
Standards For The Management Of Specific Hazardous Waste And Specific Types Of Hazardous Waste Management Facilities (P-10851/97;A-754) (P-10240)  
Standards For The Management Of Used Oil (P-10863/97;A-767) (O-4514) (R-8038)  
Standards For Universal Waste Management (P-10878/97;A-944) (P-14791/97;A-7650)  
Tiered Approach To Corrective Action Objectives (P-16982/97;A-10847)  
Water Quality Standards (P-8785/97;A-1356)  
Water Use Designations And Site Specific Water Quality Standards (P-8829/97;A-1403)

35 Ill. Adm. Code 724  
35 Ill. Adm. Code 726  
35 Ill. Adm. Code 739  
35 Ill. Adm. Code 733  
35 Ill. Adm. Code 742  
35 Ill. Adm. Code 302  
35 Ill. Adm. Code 303

PROFESSIONAL REGULATION, DEPARTMENT OF

Clinical Social Work And Social Work Practice Act (A-3875)  
Collection Agency Act (P-9466)  
Detection Of Deception Examiners Act (P-4600;A-10567)  
Dietetic And Nutrition Services Practice Act (P-13249/97;A-8445) (P-12464)  
Environmental Health Practitioner Licensing Act (P-3698)  
Illinois Architecture Practice Act Of 1989 (P-4607)  
Illinois Dental Practice Act (P-2066;A-10574) (E-2332)  
Illinois Speech-Language Pathology And Audiology Practice Act (A-3879)  
Marriage And Family Therapy Licensing Act (A-3883) (P-7505)  
Medical Practice Act Of 1987 (P-3706;A-10580) (P-15088/97;A-6985)  
Nursing Home Administrators Licensing And Disciplinary Act (A-3887)  
Pharmacy Practice Act Of 1987 (P-7870)  
Physician Assistant Practice Act Of 1987 (A-3891) (P-6041)  
Professional Counselor And Clinical Professional Counselor Licensing Act (P-8135/97;A-8460)  
Professional Geologist Licensing Act (P-3401;A-10592) (E-3597) (P-7530)  
Respiratory Care Practice Act (P-8756)  
The Illinois Landscape Architecture Act Of 1989 (P-2752;A-10597)

68 Ill. Adm. Code 1470  
68 Ill. Adm. Code 1210  
68 Ill. Adm. Code 1230  
68 Ill. Adm. Code 1245  
68 Ill. Adm. Code 1247  
68 Ill. Adm. Code 1150  
68 Ill. Adm. Code 1220  
68 Ill. Adm. Code 1465  
68 Ill. Adm. Code 1283  
68 Ill. Adm. Code 1285  
68 Ill. Adm. Code 1310  
68 Ill. Adm. Code 1330  
68 Ill. Adm. Code 1350  
68 Ill. Adm. Code 1375  
68 Ill. Adm. Code 1252  
68 Ill. Adm. Code 1456  
68 Ill. Adm. Code 1275

Hazardous Waste Injection Restrictions (P-10218/97;A-238) (P-9662)  
Hazardous Waste Management System:general (P-10235/97;A-256) (P-14755/97;A-7590) (P-9672)  
Identification And Listing Of Hazardous Waste (P-10251/97;A-275) (P-14725/97;A-7615) (P-9707)  
Information To Be Submitted In A Compost Facility Permit Application (P-11361)  
Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities (P-10342/97;A-369) (P-14730/97;A-7620) (P-9794)  
Land Disposal Restrictions (P-10492/97;A-783) (P-14742/97;A-7685) (P-9884)  
Livestock Waste Regulations (P-10102)  
Major Stationary Sources Construction And Modification (P-12823/97;A-5674)  
Management Of Used And Waste Tires (P-4240;A-11420)  
Mobile Sources (P-2720)  
Nonmethane Organic Compounds (P-6500;A-11790)  
Organic Material Emission Standards And Limitations For The Metro East Area (P-13542/97;A-3517)  
Organic Material Emission Standards And Limitations For The Chicago Area (P-1091) (P-13505/97;A-3556)  
Organic Material Emission Standards And Limitations (P-3674;A-11427)  
Permits And General Provisions (P-6466;A-11823)  
Pretreatment Programs (P-7465;A-11465)  
Primary Drinking Water Standards (P-16956/97;A-5020)  
Procedural Requirements For Permitted Landfills (P-4247;A-11483)  
RCRA And UIC Permit Programs (P-10648/97;A-532)  
RCRA Permit Program (P-10667/97;A-353) (P-14749/97;A-7632) (P-10128)  
Site Remediation Program (P-7483)  
Standards Applicable To Generators Of Hazardous Waste (P-10712/97;A-603) (P-10148)  
Standards Applicable To Transporters Of Hazardous Waste (P-10699/97;A-589) (P-10163)  
Standards For Compost Facilities (P-11367)  
Standards For New Solid Waste Landfills (P-4255;A-11491)

35 Ill. Adm. Code 738  
35 Ill. Adm. Code 720  
35 Ill. Adm. Code 721  
35 Ill. Adm. Code 831  
35 Ill. Adm. Code 725  
35 Ill. Adm. Code 728  
35 Ill. Adm. Code 506  
35 Ill. Adm. Code 203  
35 Ill. Adm. Code 848  
35 Ill. Adm. Code 240  
35 Ill. Adm. Code 220  
35 Ill. Adm. Code 219  
35 Ill. Adm. Code 218  
35 Ill. Adm. Code 215  
35 Ill. Adm. Code 201  
35 Ill. Adm. Code 310  
35 Ill. Adm. Code 611  
35 Ill. Adm. Code 813  
35 Ill. Adm. Code 702  
35 Ill. Adm. Code 703  
35 Ill. Adm. Code 740  
35 Ill. Adm. Code 722  
35 Ill. Adm. Code 723  
35 Ill. Adm. Code 830  
35 Ill. Adm. Code 811



|                                     |   |
|-------------------------------------|---|
| 68 Ill. Adm. Code 1300              | The Illinois Nursing Act Of 1987 (A-3895)   |
| 68 Ill. Adm. Code 1380              | (P-8764)  |
| 68 Ill. Adm. Code 1500              | The Professional Engineering Practice Act Of 1989 (P-10269)   |
|                                     | Veterinary Medicine And Surgery Practice Act Of 1994 (P-6815)   |
| <b>PROPERTY TAX APPEAL BOARD</b>    |   |
| 86 Ill. Adm. Code 1910              | Practice And Procedure For Hearings Before The Property Tax Appeal Board (P-13028/97;A-957)                         |
|                                     | (P-3718) (O-11646)  |
| <b>PUBLIC AID, DEPARTMENT OF</b>    |   |
| 89 Ill. Adm. Code 160               | Child Support Enforcement (P-6050)  |
| 89 Ill. Adm. Code 149               | Diagnosis Related Grouping (DRG) Prospective Payment System (PPS) (P-12468) (E-13064)                               |
| 89 Ill. Adm. Code 101               | General Administrative Provisions (P-120;A-6991)  |
| 89 Ill. Adm. Code 148               | Hospital Services (P-11881/97;A-1408)   |
|                                     | (P-13032/97;A-3083) (P-6061;A-11514) (P-8356)   |
|                                     | (P-12471) (E-13070)   |
| 89 Ill. Adm. Code 153               | Long Term Care Reimbursement Changes (P-7888)   |
|                                     | (P-12474) (E-13114)   |
| 89 Ill. Adm. Code 120               | Medical Assistance Programs (P-132;A-7003)  |
|                                     | (P-1103;A-8503) (E-1576) (P-9242) (P-12476)   |
| 89 Ill. Adm. Code 140               | Medical Payment (P-152;A-7024)  |
|                                     | (P-11889/97;A-1416) (P-12399/97;A-1416)   |
|                                     | (P-3727;A-10606) (P-13757/97;A-4412) (M-6251)   |
|                                     | (P-7534) (P-11005) (E-13117)  |
| 89 Ill. Adm. Code 146               | Specialized Health Care Delivery Systems  |
|                                     | (P-13760/97;A-4430) (P-12499) (E-13146)   |
| 89 Ill. Adm. Code 103               | Support Responsibility Of Relatives (P-9255)  |
| <b>PUBLIC HEALTH, DEPARTMENT OF</b> |   |
| 77 Ill. Adm. Code 697               | Aids Confidentiality And Testing Code (P-4277)  |
| 77 Ill. Adm. Code 205               | Ambulatory Surgical Treatment Center Licensing Requirements (P-2523) (P-9720/97;A-9335)                             |
| 77 Ill. Adm. Code 855               | Asbestos Abatement For Public And Private Schools And Commercial And Public Buildings In Illinois (P-4632) (P-4733) |
| 77 Ill. Adm. Code 681               | Audiometry Certification, Recertification And Calibration Standards (PR-5789)                                       |
| 77 Ill. Adm. Code 600               | Certified Local Health Department Code (P-1717)   |
| 77 Ill. Adm. Code 260               | Children's Respite Care Center Demonstration Program Code (A-3899)  |
| 77 Ill. Adm. Code 370               | Community Living Facilities Code (A-3919)   |
|                                     | (P-6074)  |
| 77 Ill. Adm. Code 693               | Control Of Sexually Transmissible Diseases Code (P-4302)  |
| 77 Ill. Adm. Code 696               | Control Of Tuberculosis Code (P-6716/97;A-10870)  |

|                       |   |
|-----------------------|---|
| 77 Ill. Adm. Code 515 | Emergency Medical Services And Trauma Center Code (P-3745;A-11835)  |
| 77 Ill. Adm. Code 775 | Grade A Pasteurized Milk And Milk Products (P-5797)   |
| 77 Ill. Adm. Code 550 | Head And Spinal Cord Injury Code (P-11416/97;A-5047)  |
| 77 Ill. Adm. Code 290 | Health Care Facility Plan Review Code (W-9600) (W-9603)   |
| 77 Ill. Adm. Code 675 | Hearing Screening (P-5801)  |
| 77 Ill. Adm. Code 680 | Hearing Training Applicant Requirements (PR-5812)   |
| 77 Ill. Adm. Code 280 | Hospice Programs (PR-11433/97;AR-10623) (P-11453/97;A-10625)  |
| 77 Ill. Adm. Code 250 | Hospital Licensing Requirements (A-3932)  |
|                       | (P-6088) (P-13264/97;A-9342)  |
| 77 Ill. Adm. Code 820 | Illinois Swimming Pool And Bathing Beach Code (P-7089/97;A-9346)  |
| 77 Ill. Adm. Code 245 | Illinois Home Health Agency Code (A-3948)   |
|                       | (P-6109) (P-6825)   |
| 77 Ill. Adm. Code 870 | Illinois Mobile Home Tiedown Code (P-2530) (E-2626)   |
| 77 Ill. Adm. Code 890 | Illinois Plumbing Code (P-6513)   |
| 77 Ill. Adm. Code 340 | Illinois Veterans' Homes Code (P-3462/97;A-3959)  |
|                       | (P-6119) (P-6704/97;A-7172)   |
| 77 Ill. Adm. Code 920 | Illinois Water Well Construction Code (A-3973)  |
| 77 Ill. Adm. Code 925 | Illinois Water Well Pump Installation Code (A-4028)   |
| 77 Ill. Adm. Code 350 | Intermediate Care For The Developmentally Disabled Facilities Code (P-3475/97;A-4040) (P-6133) (P-6755/97;A-7172)   |
| 35 Ill. Adm. Code 190 | Joint Rules Of The Illinois Environmental Protection Agency, The Illinois Department Of Public Health And The Illinois Department Of Nuclear Safety: Certification And Operation Of Environmental Laboratories (P-1106) |
| 77 Ill. Adm. Code 845 | Lead Poisoning Prevention Code (P-2532) (M-6252)  |
| 77 Ill. Adm. Code 395 | Long-Term Care Assistants And Aides Training Programs Code (A-4057)   |
| 77 Ill. Adm. Code 390 | Long-Term Care For Under Age 22 Facilities Code (P-3497;A-4062) (P-6150) (P-6755/97;A-7188)   |
| 77 Ill. Adm. Code 860 | Manufactured Home Community Code (P-5721/97;A-8863) (PR-5698/97;AR-8910)  |
| 77 Ill. Adm. Code 661 | Newborn Metabolic Screening And Treatment Code (P-8368)   |
| 77 Ill. Adm. Code 905 | Private Sewage Disposal Code (P-6595) (C-7711)  |
| 77 Ill. Adm. Code 330 | Sheltered Care Facilities Code (P-5313/97;A-4078) (P-6166) (P-6770/97;A-7203)   |
| 77 Ill. Adm. Code 300 | Skilled Nursing And Intermediate Care Facilities Code (P-3527/97;A-4094) (P-6185) (P-6786/97;A-7218)  |

| ILLINOIS REGISTER  |  | ILLINOIS REGISTER                                     |  |
|--|--|---|--|
| CUMULATIVE INDEX   |  | CUMULATIVE INDEX                                      |  |
| Vol. 22, Issue #29   | July 17, 1998  | Vol. 22, Issue #29                                    | July 17, 1998  |
| 77 Ill. Adm. Code 270  | Subacute Care Hospital Demonstration Program Code (P-4393/97;A-2207)                               | 86 Ill. Adm. Code 517                                 | Renewable Energy Sources And Coal Technology Development Assistance Charge (P-2761;A-10907) (E-3141)               |
| 77 Ill. Adm. Code 510  | Testing Of Breath, Blood And Urine For Alcohol And/or Other Drugs (P-13279/97;A-7680)              | 86 Ill. Adm. Code 130                                 | Retailers' Occupation Tax (P-2070) (P-13085/97;A-3097) (P-13788/97;A-3097)   |
| 77 Ill. Adm. Code 915  | The Illinois Water Well And Pump Installation Contractor's License Code (A-4111)                   | 86 Ill. Adm. Code 530                                 | Senior Citizens And Disabled Persons Property Tax Relief And Pharmaceutical Assistance Act (P-7559)                |
| 77 Ill. Adm. Code 560  | Violent Injury Reporting Code (P-11482/97;A-5062)  | 86 Ill. Adm. Code 670                                 | Special County Retailers' Occupation Tax For Public Safety (P-7564)  |
| 77 Ill. Adm. Code 685  | Vision Screening (P-5816)  | 86 Ill. Adm. Code 680                                 | Special County Service Occupation Tax For Public Safety (P-7568)   |
| <b>PUBLIC HEALTH, DEPARTMENT OF/HEALTH FACILITIES PLANNING BOARD</b> |  | 86 Ill. Adm. Code 495                                 | Telecommunications Excise Tax (P-202;A-11886)  |
| 77 Ill. Adm. Code 1130   | Health Facilities Planning Procedural Rules (P-14854/97;W-4505) (P-6834)                           | <b>SECRETARY OF STATE</b>                             |  |
| <b>POLLUTION CONTROL BOARD</b>                                       |  | 92 Ill. Adm. Code 1040                                | Cancellation, Revocation Or Suspension Of Licenses Or Permits (P-13100/97;A-1438)                                  |
| 35 Ill. Adm. Code 728  | Land Disposal Restrictions (A-7685)  | 92 Ill. Adm. Code 1010                                | Certificates Of Title, Registration Of Vehicles (P-13285/97;A-5083) (P-5345)                                       |
| <b>RACING BOARD, ILLINOIS</b>  |  | 92 Ill. Adm. Code 1020                                | (P-2080;A-8521) (C-3146)   |
| 11 Ill. Adm. Code 317  | Countdown (P-12084/97;A-2212)  | 2 Ill. Adm. Code 565                                  | Dealers, Wreckers, Transporters And Rebuilders (P-6617;A-11527)  |
| 11 Ill. Adm. Code 204  | Hearings And Enforcement Proceedings (P-4847)  | 2 Ill. Adm. Code 570                                  | Electronic Filing Of Documents (P-5829)  |
| 11 Ill. Adm. Code 1411   | Jockeys, Apprentices, Jockey Agents, And Valets (P-15442/97;A-5076)                                | 92 Ill. Adm. Code 1030                                | Electronic Filing Of Documents (P-5829;A-12565)  |
| 11 Ill. Adm. Code 502  | Licensing (P-3759) (A-10656)   | 14 Ill. Adm. Code 135                                 | Issuance Of Licenses (P-13128/97;A-1466)   |
| 11 Ill. Adm. Code 315  | Match Rival (P-12087/97;A-2214)  | 14 Ill. Adm. Code 145                                 | Regulations Under The Business Opportunity Sales Law Of 1995 (P-2763;A-9571)                                       |
| 11 Ill. Adm. Code 603  | Medication (P-12095/97;A-2217)   | 14 Ill. Adm. Code 130                                 | Regulations Under The Illinois Loan Brokers Act Of 1995 (P-14071/97;A-7233)  |
| 11 Ill. Adm. Code 300  | Pari-Mutuels (P-17008/97;A-7044)   | 1 Ill. Adm. Code 100                                  | Regulations Under The Illinois Securities Law Of 1953 (P-8861/97;A-1933)   |
| 11 Ill. Adm. Code 314  | PPT (A-2221)   | 92 Ill. Adm. Code 1100                                | Rulemaking (P-5416;A-11532)  |
| 11 Ill. Adm. Code 415  | Programs (P-17011/97;A-7046)   | 44 Ill. Adm. Code 2000                                | Rules Of The Road-Handicapped Parking (P-13131/97;AR-2278) (P-13149/97;A-2280)                                     |
| 11 Ill. Adm. Code 1318   | Racing Rules (P-11109;A-7049)  | 14 Ill. Adm. Code 180                                 | Standard Procurement (P-11695) (E-12208)   |
| <b>REHABILITATION SERVICES, DEPARTMENT OF</b>                        |  | <b>STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS</b> |  |
| 89 Ill. Adm. Code 679  | Determination Of Need (DON) And Resulting Service Cost Maximums (SCMS) (P-2068) (E-2328) (A-10445) | 80 Ill. Adm. Code 1540                                | The Administration And Operation Of The State Employee's Retirement System Of Illinois (P-13187/97;A-967) (P-6622) |
| 89 Ill. Adm. Code 682  | Eligibility (P-2623/97;A-2226)   | <b>STATE POLICE MERIT BOARD, DEPARTMENT OF</b>        |  |
| <b>REVENUE, DEPARTMENT OF</b>  |  | 80 Ill. Adm. Code 150                                 | Procedures Of The Department Of State Police Merit Board (P-15448/97;A-5092) (P-8376)                              |
| 86 Ill. Adm. Code 760  | Electronic Filing Of Returns Or Other Documents (P-6605)   | <b>STATE POLICE, DEPARTMENT OF</b>                    |  |
| 86 Ill. Adm. Code 516  | Energy Assistance Charge (P-172;A-10899) (E-1006)  | 20 Ill. Adm. Code 1230                                | Firearm Owner's Identification Card Act (P-6925)   |
| 86 Ill. Adm. Code 501  | Environmental Impact Fee (P-13045/97;A-2230)   | 20 Ill. Adm. Code 1235                                | Firearm Transfer Inquiry Program (P-7572)  |
| 86 Ill. Adm. Code 100  | Income Tax (P-174) (P-12100/97;A-2234) (P-12835/97;A-2234) (P-13048/97;A-2234)                     |   |  |
| 86 Ill. Adm. Code 500  | (P-6882) (P-7118)  |   |  |
| 86 Ill. Adm. Code 750  | Motor Fuel Tax (P-13060/97;A-2253) (P-7550) (P-7895) (P-8371)                                      |   |  |
|  | Payment Of Taxes By Electronic Funds Transfer (P-1113;A-10904)                                     |   |  |

| ILLINOIS REGISTER                                     |   |   | ILLINOIS REGISTER   |  |   |  |
|---|---|---|---|--|---|--|
| CUMULATIVE INDEX                                      |   |   | CUMULATIVE INDEX  |  |   |  |
| Vol. 22, Issue #29                                    | July 17, 1998   | Vol. 22, Issue #29                          | July 17, 1998   | Vol. 22, Issue #29   | July 17, 1998   |  |
| 20 Ill. Adm. Code 1215                                | Illinois Uniform Conviction Information Act<br>(P-5464/97;A-6234)   | 92 Ill. Adm. Code 522                       | Control Of Outdoor Advertising Adjacent To<br>Primary And Interstate Highways<br>(P-16316/97;A-7262)              | 92 Ill. Adm. Code 171  | General Information, Regulations And Definitions<br>(P-14909/97;A-5694) (P-10294)                                 |  |
| STATE UNIVERSITIES RETIREMENT SYSTEM                  |   |   | 92 Ill. Adm. Code 172   | Hazardous Materials Table And Hazardous<br>Materials Communications (P-14918/97;A-5703)<br>(P-10302) |   |  |
| 80 Ill. Adm. Code 1600                                | Universities Retirement (A-4116)  | 92 Ill. Adm. Code 445                       | Inspection Procedures For Special Education<br>School Buses (P-2558)  | 92 Ill. Adm. Code 178  | Specifications For Packagings<br>(P-14940/97;A-5726) (P-10315)  |  |
| STUDENT ASSISTANCE COMMISSION, ILLINOIS               |   |   | 92 Ill. Adm. Code 441   | Inspection Procedures For Type I School Buses<br>(P-15093/97;A-11889)                                |   |  |
| 23 Ill. Adm. Code 2771                                | College Savings Bond Bonus Incentive Grant (BIG)<br>Program (P-2772;A-11035)  | 92 Ill. Adm. Code 443                       | Inspection Procedures For Type II School Buses<br>(P-2914)  | 92 Ill. Adm. Code 440  | Minimum Safety Standards For Construction Of<br>Type I School Buses (P-5833)                                      |  |
| 23 Ill. Adm. Code 2764                                | David A. Debolt Teacher Shortage Scholarship<br>(DTSS) Program (P-2780;A-11043)   | 44 Ill. Adm. Code 650                       | Prequalification Of Contractors And Issuance Of<br>Plans And Proposals (P-9505)                                   | 92 Ill. Adm. Code 107  | Procedures (P-14923/97;A-5708) (P-10306)  |  |
| 23 Ill. Adm. Code 2720                                | Federal Family Education Loan Program (FFELP)<br>(P-2788;A-11051)   | 92 Ill. Adm. Code 102                       | Rulemaking Procedures (P-14929/97;A-5716)   | 92 Ill. Adm. Code 173  | Shippers General Requirements For Shipments And<br>Packagings (P-14933/97;A-5720) (P-10311)                       |  |
| 23 Ill. Adm. Code 2700                                | General Provisions (P-2809;A-11072)   | 92 Ill. Adm. Code 178                       | Specifications For Packagings<br>(P-14940/97;A-5726) (P-10315)  | 92 Ill. Adm. Code 179  | Specifications For Tank Cars (P-14950/97;A-5736)<br>(P-10325)   |  |
| 23 Ill. Adm. Code 2736                                | Illinois Incentive For Access (IIA) Program<br>(P-2832;A-11095)   | 92 Ill. Adm. Code 541                       | Tourist Oriented Directional Signing Program<br>(P-6630;A-12001)  | TREASURER  |   |  |
| 23 Ill. Adm. Code 2730                                | Illinois National Guard Grant Program<br>(P-2837;A-11100)   | 2 Ill. Adm. Code 651                        | Access To Information (P-1119)  | 2 Ill. Adm. Code 651   |   |  |
| 23 Ill. Adm. Code 2765                                | Illinois Special Education Teacher Tuition<br>Waiver (SETTW) Program (P-2844;A-11107)   | 74 Ill. Adm. Code 750                       | Home Ownership Made Easy (P-1124)   | 74 Ill. Adm. Code 750  |   |  |
| 23 Ill. Adm. Code 2733                                | Illinois Veteran Grant (IVG) Program<br>(P-2851;A-11114)  | 44 Ill. Adm. Code 1400                      | Procurement (P-7902) (E-13169)  | 44 Ill. Adm. Code 1400   |   |  |
| 23 Ill. Adm. Code 2790                                | Limitation, Suspension And Termination (L,S&T)<br>Proceedings (P-2859;A-11123)  | 74 Ill. Adm. Code 730                       | Smart Money Program Confidentiality Requirements<br>(P-1137)  | 74 Ill. Adm. Code 730  |   |  |
| 23 Ill. Adm. Code 2761                                | Merit Recognition Scholarship (MRS) Program<br>(P-2871;A-11135)   | NOTICE OF PUBLIC HEARINGS                   |   |  |   |  |
| 23 Ill. Adm. Code 2763                                | Minority Teachers Of Illinois (MTI) Scholarship<br>Program (P-2877;A-11141)   | CHILDREN AND FAMILY SERVICES, DEPARTMENT OF |   |  |   |  |
| 23 Ill. Adm. Code 2735                                | Monetary Award Program (MAP) (P-2885;A-11149)   | 89 Ill. Adm. Code 431                       | Confidentiality of Personal Information<br>of Persons Served by the Department of Children and Family<br>Services | 89 Ill. Adm. Code 431  | Confidentiality of Personal Information<br>of Persons Served by the Department of Children and Family<br>Services |  |
| 23 Ill. Adm. Code 2755                                | Robert C. Byrd Honors Scholarship Program<br>(P-2899;A-11162)   | 89 Ill. Adm. Code 302                       | Services Delivered By The Department of<br>Children and Family Services   | 89 Ill. Adm. Code 302  | Services Delivered By The Department of<br>Children and Family Services   |  |
| 23 Ill. Adm. Code 2760                                | State Scholar Program (P-2907;A-11170)  | 44 Ill. Adm. Code 660                       | EDUCATION, STATE BOARD OF   | 44 Ill. Adm. Code 660  |   |  |
| TEACHERS' RETIREMENT SYSTEMS OF THE STATE OF ILLINOIS |   |   | 23 Ill. Adm. Code 451   | Private Business And Vocational Schools  | 1012  |  |
| 80 Ill. Adm. Code 1650                                | The Administration And Operation Of The<br>Teacher's Retirement System (P-7138) (E-7314)<br>(P-17015/97;A-7243) (P-9259) (E-9357) (O-9601)<br>(M-11640) (P-12502) (E-13151) |   |   |  |   |  |
| TRANSPORTATION, DEPARTMENT OF                         |   |   |   |  |   |  |
| 92 Ill. Adm. Code 177                                 | Carriage By Public Highway (P-14900/97;A-5686)<br>(P-10286)   |   |   |  |   |  |
| 92 Ill. Adm. Code 700                                 | Construction In Floodways Of Rivers, Lakes And<br>Streams (CC-7362)   |   |   |  |   |  |
| 92 Ill. Adm. Code 180                                 | Continuing Qualification And Maintenance Of<br>Packaging (P-14905/97;A-5690) (P-10290)  |   |   |  |   |  |
| 44 Ill. Adm. Code 660                                 | Contract Procurement (P-9470) (C-11228)<br>(E-11602)  |   |   |  |   |  |



| ILLINOIS REGISTER  |                  | July 17, 1998 |
|--|------------------|---------------|
| Vol. 22, Issue #29   | CUMULATIVE INDEX |               |
| <b>PROFESSIONAL REGULATION, DEPARTMENT OF</b>  |                  |               |
| 68 Ill. Adm. Code 1330; Pharmacy Practice Act Of 1987  |                  | 11648         |
| <b>PUBLIC HEALTH, DEPARTMENT OF</b>  |                  |               |
| 77 Ill. Adm. Code 697; Aids Confidentiality And Testing Code   |                  | 4515          |
| 77 Ill. Adm. Code 697; Aids Confidentiality And Testing Code   |                  | 5760          |
| 77 Ill. Adm. Code 693; Control Of Sexually Transmissible Diseases Code   |                  | 4516          |
| 77 Ill. Adm. Code 693; Control Of Sexually Transmissible Diseases Code   |                  | 5762          |
| 77 Ill. Adm. Code 890; Illinois Plumbing Code  |                  | 8556          |
| 77 Ill. Adm. Code 905; Private Sewage Disposal Code  |                  | 7708          |
| <b>PUBLIC INFORMATION</b>  |                  |               |
| <b>AFFORDABLE HOUSING PROGRAM, ILLINOIS</b>  |                  |               |
| Annual Plan Of The Advisory Commission   |                  | 2338          |
| <b>BANKS AND REAL ESTATE, OFFICE OF</b>  |                  |               |
| Notice Of Fine Imposed Under The Residential Mortgage License Act Of 1987  |                  | 0             |
| <b>ENVIRONMENTAL PROTECTION AGENCY</b>   |                  |               |
| Listing Of Derived Water Quality Criteria  |                  | 5131          |
| Listing Of Derived Water Quality Criteria  |                  | 10689         |
| <b>FINANCIAL INSTITUTIONS, DEPARTMENT OF</b>   |                  |               |
| Notice Of Names Of Persons Appearing To Be Owners Of Unclaimed Property Whose Last Known Addresses Are In Certain States                           |                  | 4141          |
| <b>HUMAN RESOURCES INVESTMENT COUNCIL, ILLINOIS</b>  |                  |               |
| Workforce Development System Coordination Task Force Hearings  |                  | 5764          |
| <b>LABOR, DEPARTMENT OF</b>  |                  |               |
| List Of Contractors Prohibited From An Award Of A Contract Or A Subcontract For Public Works Projects  |                  | 11649         |
| <b>LOTTERY, DEPARTMENT OF</b>  |                  |               |
| Lists Pursuant To 20 ILCS 1605/7.1   |                  | 2355          |
| <b>POLLUTION CONTROL BOARD</b>   |                  |               |
| Final Actions Taken By The Pollution Control Board In Adjusted Standards Proceedings During Fiscal Year 1998 (July 1, 1997, Through June 30, 1998) |                  | 12288         |
| Notice Pursuant To 415 ILCS 5/7.2(b)   |                  | 7709          |
| <b>REVENUE, DEPARTMENT OF</b>  |                  |               |
| Index Letter Rulings (First Quarter 1998)(ROT)   |                  | 8912          |
| Index Of Letter Rulings (1st Quarter 1997) (Income Tax)  |                  | 9384          |
| <b>ILLINOIS REGISTER</b>   |                  |               |
| <b>CUMULATIVE INDEX</b>  |                  |               |
| Vol. 22, Issue #29   | July 17, 1998    |               |
| <b>Index Of Letter Rulings (1997 - 4th Quarter) (Income Tax)</b>   |                  | 3612          |
| <b>Index Of Letter Rulings (1997 - 4th Quarter) (Sales Tax)</b>  |                  | 3622          |
| <b>Interest Rate Information - Provided Under The Uniform Penalty And Interest Act</b>   |                  | 1011          |
| <b>Interest Rate Information Pursuant To The Uniform Penalty And Interest Act</b>  |                  | 12347         |
| <b>REGULATORY AGENCY</b>   |                  |               |
| AGING, DEPARTMENT ON (et al)   |                  | 1013          |
| AGING, DEPARTMENT ON   |                  | 11651         |
| AGRICULTURE, DEPARTMENT OF (et al)   |                  | 1603          |
| AGRICULTURE, DEPARTMENT OF (et al)   |                  | 12406         |
| ATTORNEY GENERAL (et al)   |                  | 1015          |
| CAPITAL DEVELOPMENT BOARD  |                  | 1612          |
| CARNIVAL-AMUSEMENT SAFETY BOARD  |                  | 11234         |
| CHILDREN AND FAMILY SERVICES, DEPARTMENT OF (et al)  |                  | 2344          |
| COMMERCE COMMISSION, ILLINOIS (et al)  |                  | 2351          |
| COMPTROLLER MERIT COMMISSION   |                  | 0             |
| COMPTROLLER MERIT COMMISSION   |                  | 1972          |
| CRIMINAL JUSTICE INFORMATION AUTHORITY, ILLINOIS   |                  | 11652         |
| EDUCATION, STATE BOARD OF (et al)  |                  | 1973          |
| EDUCATION, STATE BOARD OF (et al)  |                  | 13237         |
| ENVIRONMENTAL PROTECTION AGENCY (et al)  |                  | 2355          |
| ENVIRONMENTAL PROTECTION AGENCY (et al)  |                  | 13246         |
| FINANCIAL INSTITUTIONS, DEPARTMENT OF (et al)  |                  | 0             |
| FINANCIAL INSTITUTIONS, DEPARTMENT OF (et al)  |                  | 2362          |
| GAMING BOARD, ILLINOIS   |                  | 1985          |
| HEALTH FACILITIES PLANNING BOARD (et al)   |                  | 2366          |
| HEALTH FACILITIES PLANNING BOARD (et al)   |                  | 11653         |
| HOUSING DEVELOPMENT AUTHORITY, ILLINOIS (et al)  |                  | 0             |
| HUMAN SERVICES, DEPARTMENT OF (et al)  |                  | 3147          |
| INDUSTRIAL COMMISSION (et al)  |                  | 2630          |

| Vol. 22, Issue #29                                    | ILLINOIS REGISTER<br>CUMULATIVE INDEX | July 17, 1998 |
|---|---------------------------------------|---------------|
| INSURANCE, DEPARTMENT OF (et al)                      |                                       | 0             |
| INSURANCE, DEPARTMENT OF (et al)                      |                                       | 1986          |
| LABOR, DEPARTMENT OF (et al)                          |                                       | 0             |
| LIQUOR CONTROL COMMISSION, ILLINOIS                   |                                       | 0             |
| LOTTERY, DEPARTMENT OF                                |                                       | 11235         |
| NATURAL RESOURCES, DEPARTMENT OF (et al)              |                                       | 1021          |
| NUCLEAR SAFETY, DEPARTMENT OF (et al)                 |                                       | 0             |
| NUCLEAR SAFETY, DEPARTMENT OF (et al)                 |                                       | 1040          |
| OFFICE OF BANKS AND REAL ESTATE (et al)               |                                       | 2632          |
| POLLUTION CONTROL BOARD (et al)                       |                                       | 0             |
| PROFESSIONAL REGULATION, DEPARTMENT OF (et al)        |                                       | 3208          |
| PROPERTY TAX APPEAL BOARD (et al)                     |                                       | 1053          |
| PUBLIC AID, DEPARTMENT OF (et al)                     |                                       | 5141          |
| PUBLIC HEALTH, DEPARTMENT OF (et al)                  |                                       | 5979          |
| POLLUTION CONTROL BOARD (et al)                       |                                       | 2369          |
| RACING BOARD, ILLINOIS (et al)                        |                                       | 2439          |
| REVENUE, DEPARTMENT OF (et al)                        |                                       | 0             |
| REVENUE, DEPARTMENT OF (et al)                        |                                       | 1632          |
| SECRETARY OF STATE (et al)                            |                                       | 0             |
| SECRETARY OF STATE (et al)                            |                                       | 1991          |
| STATE BANKING BOARD OF ILLINOIS                       |                                       | 2638          |
| STATE POLICE, DEPARTMENT OF                           |                                       | 11656         |
| STUDENT ASSISTANCE COMMISSION, ILLINOIS (et al)       |                                       | 2442          |
| TEACHERS' RETIREMENT SYSTEMS OF THE STATE OF ILLINOIS |                                       | 1633          |
| TRANSPORTATION, DEPARTMENT OF (et al)                 |                                       | 0             |
| TRANSPORTATION, DEPARTMENT OF (et al)                 |                                       | 1634          |
| JOINT COMMITTEE ON ADMINISTRATIVE RULES               |                                       |               |

| Vol. 22, Issue #29  | ILLINOIS REGISTER<br>CUMULATIVE INDEX | July 17, 1998 |
|---|---------------------------------------|---------------|
| <b>AGENDA</b>   |                                       |               |
| Agenda for Meeting of January 14, 1998  |                                       | 1635          |
| Agenda for Meeting of February 17, 1998   |                                       | 3649          |
| Agenda for Meeting of March 24, 1998  |                                       | 5766          |
| Agenda for the Meeting of April 21, 1998  |                                       | 7064          |
| Agenda for Meeting of May 19, 1998  |                                       | 8557          |
| Agenda for Meeting of June 16, 1998   |                                       | 10698         |
| Agenda for Meeting of July 21, 1998   |                                       | 0             |
| <b>SECOND NOTICES RECEIVED</b>  |                                       |               |
| 1054, 1636, 2003, 2459, 2640, 3217, 3658, 4224, 4336, 4517, 5151,   |                                       |               |
| 5773, 5986, 6264, 6784, 7069, 7354, 7713, 8042, 8566, 8931, 9401,   |                                       |               |
| 9622, 10704, 10912, 11236, 11664, 12420, 13261  |                                       |               |
| <b>EXECUTIVE ORDERS AND PROCLAMATIONS</b>   |                                       |               |
| <b>EXECUTIVE ORDERS</b>   |                                       |               |
| 98-1 Executive Order to Extend African-American Family Commission   |                                       | 2641          |
| 98-1 Bangladesh Day (Revised)   |                                       | 5987          |
| 98-2 Transferring the Authority, Powers, and Duties of DCCA Under The Community Service Act to DHS        |                                       | 4519          |
| 98-3 Executive Order Abolishing the Governor's Science Advisory Committee and Creating the Illinois, etc. |                                       | 1644          |
| 98-3 Executive Order Pertaining to Procurement Reform   |                                       | 4521          |
| 98-4 Flood Transfer I, 1997   |                                       | 1645          |
| <b>PROCLAMATIONS</b>  |                                       |               |
| 97-672 Capital Development Day  |                                       | 1055          |
| 97-673 Greek American Nursing Home Committee Day  |                                       | 1055          |
| 97-674 Michael B. Phelps Day  |                                       | 1056          |
| 97-675 Seed Month   |                                       | 1056          |
| 97-676 Dr. Patricia J. (Jean) O'Morchoe and Dr. Charles Christopher Creigh O'Morchoe Congratulated        |                                       | 1057          |
| 97-677 Duane P. Carlson Day   |                                       | 1058          |
| 97-678 Mrs. Ealenor Murdock Day   |                                       | 1058          |
| 97-679 Pearl Harbor Remembrance Day   |                                       | 1058          |
| 97-680 Tie One On - Red Ribbon Campaign Month   |                                       | 1059          |
| 97-681 Community Banking Week   |                                       | 1059          |
| 97-682 Norwegian American Days  |                                       | 1060          |
| 97-683 Snowmobile Safety Awareness Week   |                                       | 1060          |
| 97-684 Maryalice Erickson Day   |                                       | 1061          |
| 98-001 Bangladesh Day   |                                       | 4337          |
| 98-002 Gerald F. Cooper, Jr. Day  |                                       | 4337          |
| 98-003 Middle Level Student Government Week   |                                       | 4338          |
| 98-004 Honorable Patrick J. Carroll Recognized  |                                       | 4338          |
| 98-005 David Andrew Bausch Month  |                                       | 4339          |
| 98-006 Black Law Enforcement Officers Day   |                                       | 4339          |

| ILLINOIS REGISTER  |                  |   | July 17, 1998 |
|--|------------------|---|---------------|
| Vol. 22, Issue #29   | CUMULATIVE INDEX |   |               |
| 98-007 African American Contractors Day  | 4340             | 98-049 Oral Health America Day                                    | 4530          |
| 98-008 Chicagoland Entrepreneurship Hall of Fame Day                                     | 4340             | 98-050 School Psychologists Association Week                      | 4530          |
| 98-009 Licensed Practical Nurse Week   | 4341             | 98-051 Lithuanian Independence Day                                | 4531          |
| 98-010 Argonne National Laboratory Day   | 4341             | 98-052 We Remember, We Care for Indigent Persons Day              | 4531          |
| 98-011 Operation Hope for the Children Day   | 4342             | 98-053 Lincoln-Way Knights Champions Day                          | 4531          |
| 98-012 Remember the Maine Day  | 4343             | 98-054 Providence Celtics Champions Day                           | 4532          |
| 98-013 Glenview Middle School Symphonic and Concert Band Commended                       | 4343             | 98-055 WalkAmerica Weekend  | 4532          |
| 98-014 Polish Daily News-Dzennik Zwiazkowski Day   | 4343             | 98-056 Dr. Paul N. Thompson Day                                   | 5153          |
| 98-015 African American History Month  | 4344             | 98-057 Emergency Medical Services for Children Day                | 5153          |
| 98-016 Barbara G. Hayskar Day  | 4344             | 98-058 Emergency Medical Services Week                            | 5153          |
| 98-017 FFA Week  | 4345             | 98-059 Jim and Joan Didier Day                                    | 5154          |
| 98-018 Financial Aid/Admission Awareness Month   | 4345             | 98-060 Lucac Week   | 5154          |
| 98-019 Grant Middle School 7th Grade Girls Basketball Team Congratulated                 | 4345             | 98-061 Probation and Court Services Officer Day                   | 5155          |
| 98-020 Irv Kupcinet Day  | 4346             | 98-062 Brain Tumor Awareness Week                                 | 5155          |
| 98-021 John Records Landecker Day  | 4347             | 98-063 Design Drafting Week                                       | 5156          |
| 98-022 Patrick T. Molloy Day   | 4347             | 98-064 Estonian Independence Day                                  | 5156          |
| 98-023 School Social Work Week   | 4348             | 98-065 Inspirational Older Women Recognized                       | 5157          |
| 98-024 Vivian Adams, Homer Randolph, Dr. Lillian Parks Commended                         | 4348             | 98-066 Steve Dahl Day   | 5157          |
| 98-025 Foreign Language Week   | 4349             | 98-067 Women's History Month                                      | 5158          |
| 98-026 Frances Elizabeth Caroline Willard Day  | 4349             | 98-068 Child and Youth Care Workers Week                          | 5159          |
| 98-027 Land Surveyors' Month   | 4350             | 98-069 Engineers Week   | 5159          |
| 98-028 Pet Week  | 4351             | 98-070 Libertyville Woman's Club Day                              | 5159          |
| 98-029 Sisters With Pearls Interest Group of Alpha Kappa Alpha Sorority, Inc. Recognized | 4351             | 98-071 Public Health Week   | 5160          |
| 98-030 U.S.S. Concord CL-10 Week   | 4352             | 98-072 Ray Alvarez Day  | 5160          |
| 98-031 El Puente Awards Day  | 4352             | 98-073 Student Council Week                                       | 5161          |
| 98-032 Groundhog Job Shadow Day  | 4352             | 98-074 Veterinary Medical Education Week                          | 5161          |
| 98-033 Pride in Food Service Week  | 4353             | 98-075 Illinois Easter Seal Society Denim Week                    | 5161          |
| 98-034 Dunbar Vocational Career Academy Day  | 4523             | 98-076 Illinois Hospital and Healthsystem Association Week        | 5162          |
| 98-035 Future Business Leaders of America-Phi Beta Lambda Week                           | 4523             | 98-077 Jasper County Soil and Water Conservation District Day     | 5162          |
| 98-036 Future Society Week   | 4523             | 98-078 Union County Soil and Water Conservation District Day      | 5163          |
| 98-037 Proud Lady Beauty Show Month  | 4524             | 98-079 Guerrero Week  | 5163          |
| 98-038 Week of the High Risk Child   | 4524             | 98-080 TRIO Day   | 5164          |
| 98-039 Kendall County Soil and Water Conservation District Day                           | 4525             | 98-081 Washington County Soil and Water Conservation District Day | 5164          |
| 98-040 Perry County Soil and Water Conservation District Day                             | 4525             | 98-082 William S. Katz Day  | 5164          |
| 98-041 Certified Nurse Assistant Week  | 4526             | 98-083 Chicago Business Opportunity Days                          | 5165          |
| 98-042 Four Chaplains Sunday   | 4526             | 98-084 Cosmetology Month  | 5165          |
| 98-043 Long-Term Care Administrators Week  | 4527             | 98-085 Month Transmitter Regulators Association Week              | 5166          |
| 98-044 Long-Term Care Nurses Week  | 4527             | 98-086 Navy Seabee Day  | 5166          |
| 98-045 Nursing Home Week   | 4528             | 98-087 Robert E. "Bob" Burke Day                                  | 5167          |
| 98-046 Nursing Home Week (Revised)   | 5988             | 98-088 Floyd Kalber Day   | 5168          |
| 98-047 Girls and Women in Sports Day   | 4528             | 98-089 Casimir Pulaski Day  | 5168          |
| 98-048 Industrial Distribution Day   | 4529             | 98-090 Tibetan Awareness Day                                      | 5169          |
|  |                  | 98-091 Gene Reineke Day   | 5988          |
|  |                  | 98-092 Leonard D. "Barney" Barnard Day                            | 5989          |
|  |                  | 98-093 Marketing Innovators Month                                 | 5989          |
|  |                  | 98-094 Operation Desert Storm Remembrance Day                     | 5989          |



|   |      |  |      |
|---|------|--|------|
| 98-095 Professional Secretaries Week/Professional Secretaries Day | 5990 | 98-141 Motorcycle Awareness Month  | 7077 |
| 98-096 Arts in Education Spring Celebration Months                | 5990 | 98-142 Records and Information Management Week                                   | 7078 |
| 98-097 Employ the Older Worker Week                               | 5990 | 98-143 Shared Housing Week   | 7078 |
| 98-098 Golden Apple Day   | 5991 | 98-144 Black Women's Leadership Council Days                                     | 7079 |
| 98-099 Home Education Week  | 5991 | 98-145 Graduate and Professional Student Appreciation Week                       | 7079 |
| 98-100 Midwest Fertility Awareness Week                           | 5991 | 98-146 Illinois State Redbirds Congratulated                                     | 7079 |
| 98-101 Robert B. Oxtoby Day                                       | 5992 | 98-147 Jefferson Awards Day  | 7079 |
| 98-102 Women in Illinois Saluted During Women's History Month     | 5992 | 98-148 Puerto Rican Chamber of Commerce of Illinois Day                          | 7080 |
|   |      | 98-149 Community Theatre Week  | 7081 |
| 98-103 Lioness Caramel Day  | 5993 | 98-150 Chicago Federal Executive Board's Employee of the Year Awards Day         | 7081 |
| 98-104 Barbara M. Wheeler Day                                     | 5993 | 98-151 Week of the Young Child   | 7082 |
| 98-105 Girl Scout Week  | 5994 | 98-152 Disaster Area-Coles County  | 2357 |
| 98-106 Iranian Heritage Day                                       | 5994 | 98-153 Arts Week   | 2357 |
| 98-107 LaPetite Delta Month                                       | 5995 | 98-154 Call Before You Dig Month   | 2357 |
| 98-107 La Petite Delta Month (Revised)                            | 7071 | 98-155 Chicago Board of Trade Sesquicentennial Anniversary Day                   | 2358 |
| 98-108 March of Dimes Month                                       | 5995 | 98-156 National Association of Women Business Owners Day                         | 2358 |
| 98-109 Absolutely Incredible Kid Day                              | 5996 | 98-157 Stamp Collecting Week   | 2359 |
| 98-110 Mother of the Year Day                                     | 5996 | 98-158 Alcohol Awareness Month   | 2359 |
| 98-111 Poison Prevention Week                                     | 5997 | 98-159 Child Abuse Prevention Month  | 2360 |
| 98-112 Stop the Violence Month                                    | 5997 | 98-160 Children's Home & Aid Society Parents Anonymous Blue Bow Day              | 2360 |
| 98-113 Multiple Sclerosis Association Month                       | 5998 | 98-161 Construction Industry Service Corporation Day                             | 2361 |
| 98-114 American Red Cross Month                                   | 5998 | 98-162 Human Services Week   | 2361 |
| 98-115 AACRAO Week  | 5998 | 98-163 Medical Assistant is the Heart of Healthcare Week/Medical Assistants Week | 2361 |
| 98-116 Arts Education Week (1)                                    | 5999 | 98-164 Stroke Awareness Month  | 2361 |
| 98-117 Dorothy Richardson Day                                     | 6000 | 98-165 International Highway Transportation Safety Week                          | 2362 |
| 98-118 Music Education Day  | 6000 | 98-166 Smiles Tag Day  | 2363 |
| 98-119 Tree City USA Month  | 6001 | 98-167 Africa Week   | 2363 |
| 98-120 Arts Education Week (2)                                    | 6001 | 98-168 Child Abuse Prevention Week   | 2363 |
| 98-121 Manufacturers Week   | 6001 | 98-169 Dietary Managers Day  | 2364 |
| 98-122 Days of Remembrance of the Victims of the Holocaust        | 6002 | 98-170 Make a Difference Day   | 2364 |
| 98-123 IIA Springfield Chapter Day                                | 6003 | 98-171 Order Sons of Italy/Alzheimer's Association "Partners in Progress" Day    | 2365 |
| 98-124 National 600 Bowling Club Week                             | 6003 | 98-172 Toastmasters Week   | 2365 |
| 98-125 Native American History Month                              | 6003 | 98-173 Adult Education Week  | 2366 |
| 98-126 Brain Awareness Week                                       | 7071 | 98-174 Amigos De Ser Day   | 2366 |
| 98-127 Cancer Fatigue Awareness Day                               | 7071 | 98-175 Barbara Clemmons Day  | 2366 |
| 98-128 Pediatric Nurse Practitioners Week                         | 7072 | 98-176 Drinking Water Week   | 2367 |
| 98-129 International Student Awareness Month                      | 7072 | 98-177 Electric and Telephone Cooperative Youth Day                              | 2367 |
| 98-130 Jo Warfield Day  | 7073 | 98-178 Gary Smith Day  | 2367 |
| 98-131 Landmarks Preservation Council of Illinois Days            | 7073 | 98-179 Groundwater Protection Month  | 2368 |
| 98-132 Malcolm X College Career Expo Day                          | 7074 | 98-180 Harold Washington Day   | 2369 |
| 98-133 Telecommunicator Week                                      | 7074 | 98-181 Library Technician Day  | 2370 |
| 98-134 Apprenticeship Week  | 7074 | 98-182 Correctional Officers Week  | 2370 |
| 98-135 Savings Month  | 7075 | 98-183 Electrical Safety Month   | 2370 |
| 98-136 Women Employed Day   | 7075 |  |      |
| 98-137 Week Without Violence                                      | 7075 |  |      |
| 98-138 Doctor's Day   | 7076 |  |      |
| 98-139 Laboratory Week  | 7076 |  |      |
| 98-140 Miss America 1998, Katherine Shindle Recognized            | 7077 |  |      |

| ILLINOIS REGISTER   |      |               | ILLINOIS REGISTER  |       |               |
|---|------|---------------|--|-------|---------------|
| CUMULATIVE INDEX  |      |               | CUMULATIVE INDEX   |       |               |
| Vol. 22, Issue #29  |      | July 17, 1998 | Vol. 22, Issue #29   |       | July 17, 1998 |
| 98-184 Family Federation for World Peace and Unification Day                                | 2371 |               | 98-231 YMCA Day of Commitment to Eliminate Racism and Erase the Hate Day       | 8579  |               |
| 98-185 Schmidt-Marcotte, Inc. Day   | 2371 |               | 98-232 Michael G. Bartley Congratulated  | 8579  |               |
| 98-186 Marine Corps League Week   | 2372 |               | 98-233 Hampton Inn & Suites Day  | 8580  |               |
| 98-187 Walter Whitman, Jr. Day  | 2372 |               | 98-234 Muhammad Ali Day  | 8581  |               |
| 98-188 American POW Recognition Day   | 2373 |               | 98-235 Older Americans Month   | 8581  |               |
| 98-189 Gateway Foundation Day   | 2373 |               | 98-236 Respect for Law Week  | 8582  |               |
| 98-190 Intergenerational Week   | 2373 |               | 98-237 The Berghoff Day  | 8582  |               |
| 98-191 Soil and Water Stewardship Week  | 2374 |               | 98-238 Emergency Services Personnel Day  | 8583  |               |
| 98-192 Student Technology Day   | 2374 |               | 98-239 Lionel Kramer Day   | 8584  |               |
| 98-193 Disaster Area - Clay County  | 8044 |               | 98-240 Lynn O'Shea Day   |       |               |
| 98-194 Disaster Area - Macon County   | 8044 |               | 98-241 National Association of Letter Carriers' Food Drive Day                 |       |               |
| 98-195 Illinois College of Optometry Day  | 8044 |               | 98-242 Senior Celebration Day  | 8584  |               |
| 98-196 Maritime Day   | 8045 |               | 98-243 Walk Day  | 8585  |               |
| 98-197 Rev. Dr. Henry M. Williamson, Sr. Day  | 8045 |               | 98-244 A Day Memorializing The Innocent and Forgotten Victims of the Holocaust |       |               |
| 98-198 Sheerit Hapleitha Holocaust Memorial Day   | 8046 |               | 98-245 Buz Hoffman Day   | 8585  |               |
| 98-199 Week of the Volunteer  | 8046 |               | 98-246 Children's Mental Health Week   | 8586  |               |
| 98-200 Bob Bell Day   | 8047 |               | 98-247 Polish Women's Alliance Day   | 8587  |               |
| 98-201 Gamma Phi Circus Week  | 8047 |               | 98-248 Princeton Fire Department Employees/90 Days Notice of Referendum        |       |               |
| 98-202 Home-School Education Week   | 8048 |               | 98-249 Women's Board of Partners Home Care Day                                 | 8587  |               |
| 98-203 Part H Early Intervention "Look What I Can Do"                                       | 8048 |               | 98-250 Barrington Suzuki Strings Day   | 8588  |               |
| 98-204 "Cats" Day   | 8049 |               | 98-251 Defense Transportation Week   | 8588  |               |
| 98-205 Crime Victims' Rights Week   | 8049 |               | 98-252 Good Sam Clean-up Day   | 8589  |               |
| 98-206 Help Kids Be Tobacco-Free Day  | 8050 |               | 98-253 Municipal Clerks Week   | 8590  |               |
| 98-207 Ms. Dinner of Champions Day  | 8051 |               | 98-254 Peoria Medical Society Day  | 8591  |               |
| 98-208 Nurses Week  | 8051 |               | 98-255 Retinitis Pigmentosa (RP) Day   | 8592  |               |
| 98-209 Polish Friendship Through Song and Music Days  | 8051 |               | 98-256 Better Hearing Month  | 8592  |               |
| 98-210 Dank-Spatzen German American Children's Choir Day                                    | 8568 |               | 98-257 Day of Prayer   | 8592  |               |
| 98-211 Hispanic Heritage Month  | 8568 |               | 98-258 Dialogue on Race Day  | 8593  |               |
| 98-212 Illinois Church Action on Alcohol Problems Day                                       | 8569 |               | 98-259 Manufactured Housing Month  | 8593  |               |
| 98-213 Illinois State Envirothon Day  | 8570 |               | 98-260 Swedish Cultural Heritage Month   | 8594  |               |
| 98-214 Cheerleading Days  | 8570 |               | 98-261 Asian American Heritage Month   | 8595  |               |
| 98-215 Official Opening Day of the Illinois and Michigan Canal Sesquicentennial Celebration | 8571 |               | 98-262 David O. Livingston Day   | 8595  |               |
| 98-216 Ship Week  | 8571 |               | 98-263 Father Jack Juchinski Congratulated                                     | 8595  |               |
| 98-217 Cince De Mayo Day  | 8571 |               | 98-264 Foster Parent Appreciation Month  |       |               |
| 98-218 Safe Kids Week/Safe Kids America   | 8572 |               | 98-265 Illinois-Iowa Section of the American Chemical Society Day              | 8596  |               |
| 98-218 Safe Kids Week/Safe Kids America (Revised)   | 8572 |               | 98-266 Provider Appreciation Day   | 8596  |               |
| 98-219 The Ancona School Days   | 8573 |               | 98-267 Disaster Area-Logan County  | 10706 |               |
| 98-220 The Big Help Week  | 8574 |               | 98-268 Jewish Council for Youth Services Day                                   | 10706 |               |
| 98-221 Todd T. Lizak Day  | 8574 |               | 98-269 National Association of Insurance Women Week                            | 10707 |               |
| 98-222 WKIO-FM and Mike in the Morning  | 8574 |               | 98-270 Osteoporosis Prevention Month   | 10707 |               |
| 98-223 Access Living Day  | 8575 |               | 98-271 Polish Constitution Day   | 10708 |               |
| 98-224 Ageless Heroes Day   | 8575 |               | 98-272 Prevention of Accidents and Brain and Spinal Cord Injuries Week         |       |               |
| 98-225 Bishop Aaron Holmes Day  | 8576 |               | 98-273 Tennis Across Illinois Day  | 10708 |               |
| 98-226 Sculpture and Tourism Month  | 8577 |               | 98-274 Vernon Sandacz Day  | 10709 |               |
| 98-227 Armenian Martyrs Day   | 8577 |               |  |       |               |
| 98-228 Cybertechnology Day  | 8577 |               |  |       |               |
| 98-229 Therapeutic Recreation Week  | 8578 |               |  |       |               |
| 98-230 Villa Park Chamber of Commerce Day   | 8578 |               |  |       |               |

| ILLINOIS REGISTER   |                  | ILLINOIS REGISTER  |                  |
|---|------------------|--|------------------|
| Vol. 22, Issue #29  | CUMULATIVE INDEX | Vol. 22, Issue #29   | CUMULATIVE INDEX |
|   | July 17, 1998    |  | July 17, 1998    |
| 98-275 Lieutenant Governor Bob Kustra Commended                       | 10710            | 98-322 Jobs for America's Graduates Day                          | 11238            |
| 98-276 Dewey Thompson Day   | 10710            | 98-323 Ridge Terrace Day   | 11238            |
| 98-277 Garden Week  | 10711            | 98-324 Azerbaijan American Cultural Society Day                  | 11239            |
| 98-278 Health Awareness Month   | 10711            | 98-325 Excellence in Scouting Day                                | 11239            |
| 98-279 John E. and Hazel W. Francis Pavilion Day                      | 10712            | 98-326 Florence B. Wilson Day                                    | 11240            |
| 98-280 Lambda Mu Omega Day  | 10712            | 98-327 Geneva Scott Outreach Services Day                        | 11240            |
| 98-281 Mother's Day   | 10713            | 98-328 University of Illinois Alumni Association Day             | 11241            |
| 98-282 Teen pregnancy Awareness Month                                 | 10713            | 98-329 American Bald Eagle Day                                   | 11241            |
| 98-283 Vocational Student Organizations Week                          | 10713            | 98-330 Cornerstone Center Day                                    | 11242            |
| 98-284 Father Richard Homa Day  | 10714            | 98-331 Men's Health Week   | 11243            |
| 98-285 Food Allergy Awareness Week                                    | 10714            | 98-332 Pastor Greg Wenhold Day                                   | 11243            |
| 98-286 Michele Piel Day   | 10715            | 98-333 Pearls of Distinction Fashionetta Debutante Cotillion Day |                  |
| 98-287 Music Week   | 10715            |  |                  |
| 98-288 Rabbi Arnold Jacob Wolf Day                                    | 10716            | 98-334 Operation Graduation Weekend                              | 11244            |
| 98-289 Chronic Fatigue and Immune Dysfunction Syndrome Awareness Day  | 10717            | 98-335 Sister Clarita Langenfeld Day                             | 11244            |
| 98-290 Norwegian Constitution Days                                    | 10717            | 98-336 The Improved Benevolent and Protective Order of Elks Week | 11245            |
| 98-291 University of Illinois At Chicago, School of Public Health Day | 10717            | 98-337 Family Federation for World Peace and Unification Day (2) | 11245            |
| 98-292 Bob Kustra Commended   | 10914            | 98-338 Mother Mary Isabelle Callahan Wright Day                  | 11246            |
| 98-293 GFWC Illinois Week   | 10914            | 98-339 Trails Day  | 11246            |
| 98-294 Aquatic Week   | 10915            | 98-340 Urbana Middle School Concert Day                          | 11247            |
| 98-295 Aviation Safety Awareness Month                                | 10915            | 98-341 Dr. Earlie Washington Day                                 | 11247            |
| 98-296 Leadership Springfield Day                                     | 10916            | 98-342 Marfan Syndrome Awareness Week                            | 11248            |
| 98-297 Quentis Bernard Field Day                                      | 10916            | 98-343 Myasthenia Gravis Month                                   | 11249            |
| 98-298 Water Awareness Month  | 10917            | 98-344 Small Business Month                                      | 11250            |
| 98-299 Women's Business Development Day                               | 10917            | 98-345 CWLA/William Anderson Scholarship Award Day               | 11250            |
| 98-300 Charles L. Gauwitz Day   | 10918            | 98-346 Great Deal Day  | 11251            |
| 98-301 Vasa Order of America Days                                     | 10918            | 98-347 Lions Candy Day   | 11251            |
| 98-302 Endangered Species Protection Day                              | 10919            | 98-348 Alfreda Readus Day  | 11251            |
| 98-303 Mack Rossie Lemons Day   | 10919            | 98-349 Harlem Community Center Day                               | 11251            |
| 98-304 Mrs. Carolyn Neumann Day                                       | 10920            | 98-350 Jim Reilly Day  | 11252            |
| 98-305 Mrs. Fay Dixon Day   | 10920            | 98-351 Amateur All-Star Baseball Week                            | 11252            |
| 98-306 Mrs. Peggy Jurgensen Day                                       | 10921            | 98-685 Dale L. Klorh Day   | 2460             |
| 98-307 Mrs. Susan Hill Day  | 10921            | 98-686 Dan Egler Day   | 2460             |
| 98-308 National College of Chiropractic Month                         | 10921            | 98-687 Fair Housing Week   | 2461             |
| 98-309 American GI Forum Day  | 10922            | 98-688 Chicago Music Awards Day                                  | 2461             |
| 98-310 Buckle Up Week   | 10922            | 98-689 Life Insurance Week                                       | 2462             |
| 98-311 Dr. H. James Mahan Day   | 10923            | 98-690 Paul H. Bogan Day   | 2462             |
| 98-312 Haitian Flag Day Celebration 1998                              | 10924            | 98-691 Volunteer Blood Donor Month                               | 2463             |
| 98-313 Willie B. Nelson Sr. Day                                       | 10924            | 98-692 All Law Enforcement Officers Day                          | 2463             |
| 98-314 Working Women's Awareness Week                                 | 10924            | 98-693 Bridie Sheerin Day  | 2463             |
| 98-315 Alex A. Solerno Day  | 10924            | 98-694 Easter Seal Month   | 2464             |
| 98-316 Bobby Rahal Day  | 10925            | 98-695 Financial Literacy for Youth Month                        | 2464             |
| 98-317 Family Week  | 10926            | 98-696 Illinois and Michigan Canal Days                          | 2465             |
| 98-318 Illinois Rivers Appreciation Month                             | 10926            | 98-697 Kids Day Illinois   | 2465             |
| 98-319 Easter Seals Day   | 11237            | 98-698 Kings Holiday Celebration/College Fair '98 Days           | 2466             |
| 98-320 Freeport Terrace Day   | 11237            | 98-699 Dwight "Ike" A. Magalis Day                               | 2466             |
| 98-321 James Braxton Lovett IV and Kelly Ann Mulvihill Congratulated  | 11237            | 98-700 Master Sergeant Allen Jackson Day (Revised)               | 2467             |
|   |                  | 98-700 Master Sergeant Allen Jackson Day                         | 2467             |



## ILLINOIS REGISTER

| Vol. 22, Issue #29                                      | CUMULATIVE INDEX | July 17, 1998 |
|---|------------------|---------------|
| 98-701 Illinois Agricultural Pesticides Conference Days |                  | 2467          |
| 98-702 Togo West, Jr. Day                               |                  | 2468          |
| 98-703 Youth Action Ministry Day                        |                  | 2468          |

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